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CORPUS IURIS SANSCRITICUM
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A Series on Social and Religious Law
edited by Oscar Botto

Volume VI



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THE PRICE OF PURITY

THE RELIGIOUS JUDGE IN 19TH CENTURY NEPAL

Containing the Edition and Translation
of the Chapters on the Dharmādhikārin
in Two (*Mulukī*) *Ains*

by Axel Michaels

Torino

2005

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La nuova formulazione di "*Corpus Iuris Sanscriticum et fontes iuris Asiae Meridianae et Centralis*", deliberata dal Comitato Scientifico e intesa a contemplare la pubblicazione di opere concernenti un'area geografica più ampia con tipologie editoriali più diversificate, accompagnata da una rinnovata veste editoriale, ha incontrato i più ampi consensi. Il Progetto ha acquisito una connotazione ben delineata e conforme alle linee programmatiche e una regolarità delle pubblicazioni che gli hanno valso un unanime giudizio di impresa di primaria importanza scientifica.

I lusinghieri apprezzamenti che hanno accompagnato la pubblicazione dei Volumi della collana del C.I.S., hanno ricevuto ulteriore conferma dal giudizio estremamente positivo che il Prof. Richard W. Larivière, Dean, College of Liberal Arts, Università del Texas, ha recentemente presentato alla 79^a Sessione dell'Union Académique Internationale (Ankara 23-28 maggio 2005). Nella sua puntuale e dettagliata relazione il Prof. Larivière ha espresso le più sentite felicitazioni per il programma scientifico-editoriale del C.I.S. e, sottolineando che "*The project has been favorably reviewed by external reviewers recruited for this task by the UAI*", ha così concluso: "*We look forward with enthusiasm to the fruits of the series appearing in timely fashion. We congratulate the president and the rest of the scientific committee on their vision and energy*".

*

Il presente studio di Axel Michaels dell'Università di Heidelberg, ricollegandosi idealmente all'edizione critica del Canone Nepalese curata da J. Fezas (II volume della Collana), esamina il ruolo e la funzione del Dharmādhikārin, il supremo giudice religioso del tribunale, in stretta correlazione con l'espiazione e la condanna penale in uso nella società nepalese del XIX secolo. Lo studio è condotto su base testuale e presenta l'edizione e la traduzione delle sezioni relative al Dharmādhikārin nel Codice AIN del 1854 (capitolo 89) e in quello del 1888 (capitolo 32 del quinto volume). I testi originali nepalesi, per garantire una maggiore rispondenza, anche grafica, al dettato del Codice, sono stati riprodotti dall'Autore in caratteri devanagari e accompagnati dalla relativa traduzione.

Oscar Botto

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Preface

Ever since the reprint edition of the (*Muluki*) *Ain* of 1854 (hereafter MA 1854)¹ was published V.S. 2022 (1965 A.D.) by the Ministry of Justice, Nepal's first printed legal code has attracted scholarly attention. However, until recently, only a few copies survived the devastating fire in 1971 in the Sinha Durbar, the palace of the Prime Minister,² so that the text, given its wealth of information on the legal and socio-religious situation in mid-19th century Nepal, has still not been sufficiently analysed. Fortunately, Jean Fezas has now presented a new edition of the MA 1854, thereby facilitating the use of the text.³ Nevertheless, a complete translation is still a *desideratum*, although several chapters have been translated by (the team of) Mahesh Candra Regmi in the *Regmi Research Series* (Kathmandu).

The present publication presents material on the role and function of the Dharmādhikāri(n), the supreme religious judge in the court regarding expiation (Nep. *patiyā*, Skt. *prāyaścitta*) and penal punishment in 19th century Nepal, which is predominantly treated in chapter 89 of the MA 1854 and the 32nd chapter (*bhāg*) of the 5th volume of the MA 1888 (pp. 137-214.). In the second part of this book I have edited the chapter of MA 1854

1 According to Fezas 2000: XXVII, the year of the first version is 1853 A.D. However, according to the *lālmohor*, published in facsimile in the edition of V.S. 2022 (1965 A.D.), this *Ain* was promulgated on V.S. 1910 Pauṣa, śudi 7, which is equivalent to the 6th of January 1854 (see *infra*). Although the two basic manuscripts (MS-A and MS-B) used by Fezas and me were probably compiled between 1851 and 1853 A.D., I regard (in accordance with common usage) the year of promulgation as decisive for the dating of the MA (cf. Höfer 1979: 39).

2 Fezas V.S. 2047, 1986 and 2000: XXVIIff.

3 Fezas 2000. Unfortunately Fezas' edition lacks some important information: a thorough description of the used manuscripts, a critical apparatus, a listing of the places where the manuscripts are kept and the reel numbers of the manuscripts from the Nepal-German Manuscript Preservation Project. Moreover, philological variants are generally only graphically presented in different colours, but not discussed. One also doubts whether it is makes sense to list *all* minor variants (e.g. inherent *a*, short or long vowels, *anusvāra*, spelling of *kha* in place of *ṣa*). It would, perhaps, have been better to list recurrent variants in the preface. Finally, the edition which—probably to the dislike of most Nepali readers—is presented in transliteration but not in Devanāgarī script is not a study of the text. It does not, therefore, use further law material or any secondary literature which could have facilitated greater understanding of the text. It is hoped that Mr. Fezas will also present a future translation of the MA.

using two important manuscripts from the National Archives Kathmandu. I have also re-translated ch. 89 of MA 1854 using the fairly reliable, but at some places wrong, misleading or imprecise translation of Mahesh C. Regmi,⁴ first published in the *Regmi Research Series* (1979-1980) and recently reprinted.⁵ Furthermore, I have edited and translated the text of an amended version of V.S. 1945 (1888 A.D.), which is much clearer and shorter and is understood as a supplement to the previous Ains rather than an amendment.⁶

The first part of this book is a study of the function of the Dharmādhikārin, which many consider a key post in the relationship between king and Brahmin with regard to their religious authority and secular power. This relationship is, of course, essential for understanding the differences between penance and penalty—or penitential and penal punishments—in Hindu Law, which have been widely discussed on the basis of classical Sanskrit texts. I have tried to combine these studies with the new material from the Nepalese *Ains*, which shows that these Nepalese law texts are based on *smṛti* texts and Dharmaśāstra material to a greater extent than it is generally assumed.

My work could not have been accomplished without the help of my dear friend and colleague Nutan Dhar Sharma, who patiently helped me understand difficult passages in the *Ains* and collate the manuscripts. I am also very grateful for András Höfer's brilliant study on the MA 1854⁷ and for his personal support in this work. His study has been a great source of inspiration and a constant point of reference. In many cases I used his terminology and often I refer to his findings or detailed tables. It is a book which, I hope, the reader will use as frequently as I did. Moreover, I am very grateful for my friend Fabrizia Baldissera, who had the patience to read the first draft and made many valuable suggestions and to Steve Haring for revising my English. I am also grateful for the help of Andreas Roock and especially Bao Do in preparing a camera-ready copy of the present volume. Finally I wish to express my gratitude to the editors of *Corpus Iuris Sanscriticum*, especially to Oscar Botto and Siegfried Lienhard, for the kind offer to publish this study in their series.

Axel Michaels

4 Mahesh C. Regmi himself described his translation of the Mulukī Ain as "faithful but simplified" (M.C. Regmi 2002: xi).

5 M.C. Regmi 2002: 61-105.

6 Cf. MA 1888/5.32/1.

7 Höfer 1979 (reprint 2004).

I. Prāyaścīta and the Dharmādhikārin

1. Introduction

Sin and crime should be punished—for the sake of the order. This principle seems to be common to all religious or legal doctrines. But the question is: whose order? The order established by god(s) or the order of the king? If religious and civil law are separated, the answer seems to be obvious: If it is a purely religious matter, god(s), priest(s) or the church are generally responsible. And if sinful actions concern public or social matters, it is the king or the state which claims the right to punishment. However, since the definition of sin is contested, religious and secular authorities or social groups often disagree on whether an evil or sinful action is a matter of public (royal) or private concern, and whether it is left to the guilty person to undergo purification voluntarily or whether his transgression is to be punished by penal modes of punishment. The situation gets even more complicated by the fact that state (king) and church (Brahmin) can both punish the guilty person or sinner, and the church (Brahmins in this case) can act on behalf of the state (king) and vice versa.

Broadly speaking, a religious punishment is often a form of penance, e.g. a vow of fasting, pilgrimage, prayer, various gifts (e.g. *godāna*) etc., while secular punishment is a kind of penalty (imprisonment, charges, the confiscation of property, atonement or compensation, etc.). Penances affect absolutions and the restitution of the sinner's harmony with god or the cosmos (*ṛta*, *dharma*). Their effect is to a certain extent spiritual and transcendental, referring to another world or the "next life". Penalties are mostly meant to restore public order or fulfill the social or economic rights of a victim in his present life. Penance more or less involves concepts of sin and guilt, whereas penalties do not presuppose such concepts or feelings. Penances are often voluntary, while penalties are often obligatory. However, these distinctions are rarely made.

In Hindu law or in Hindu legal traditions, no term expresses the Roman or Western concept of law, neither in the sense of *ius* nor in that of *lex*, so that a number of major differences call for a special treatment of the subject.¹

First, god and king can be seen as identical. In Nepal, for instance, the king is believed to be (a form of) Viṣṇu, and all traditional Hindu concepts of

1 See Jolly 1896: Gampert 1939: 121, Derrett 1957 and 1979, Day 1982.

kingship² regard the king as a divine being. State and religion are therefore not separated, even though modern Hindu law is conceived as secular law. In classical Indian sources³ and also mid-19th century Nepal,⁴ such a distinction was not made. As we shall see, the king, too, had religious power since penalties ordered by him could have expiatory results. However, as we will also see, there has always been a clear differentiation between penitential and penal law systems.

Secondly, the individual is not separated from his social group. Although Louis Dumont's theory of the role of the individual in Hindu society is often questioned, it remains a fact that even penitential offences committed by a single person affect to a great extent other persons, mostly close family members (wife, children), and in some cases the extended kinship or fellow caste members. This holds especially true for offences implying pollution. In 19th century Nepal, remaining in a state of impurity had serious social consequences, as even sexual intercourse with one's own spouse, dining with fellow caste members or performing death rites could be prohibited by law.

Thirdly, Hindu law is not a natural right but the law of castes and regions. Although the *Ain* of 1854 was meant to establish a homogeneous application of the law for the whole country (*bhar muluk*),⁵ since the laws hitherto varied regionally throughout Nepal's ethnic groups and regions, it was not a fully uniformed law. On the contrary, the subjects, no matter what their standing and ranking, should—as mentioned in the preamble—still be punished according to their offence (*khar*) and caste (*jār*). Hindu law does not strongly differentiate between positive law and morality. Judicial, administrative, social or even psychological forms of pressure are all mixed together.⁶ After all, there is not just one but several *dharma*s (*svadharma*, *deśadharma*, *kuladharma*, *strīdharma*, *varṇāśramadharma*). This holds true for the MA 1854 as well.

Finally, subjectivity or the motive of criminal actions is less valued in Hindu law as it was in Roman or modern Western law. Punishment in Hindu law is less a question of feeling guilty than of the objective consequences of an action. Therefore, several important legal issues such as intent, guilt,

2 See, for example, Gonda 1969.

3 See, for example, Foy 1895, Jolly 1896, Gampert 1939, Ganguly, J.N.C. 1926, Das Gupta 1973, Day 1982, Lahiri 1986.

4 Whelpton 1992: 11ff., Vaidya & Manandhar 1985.

5 Høfer 1979: 195.

6 Lahiri 1986: 16.

criminal responsibility, innocence (due to senility, for instance), mitigation, accomplishment, etc. are organised differently in Hindu law.

I shall deal with these and other problems by concentrating on the position of the Dharmādhikārin in legal texts and documents from 19th century Nepal.⁷ My main concern is the *Mulukī Ain*,⁸ or *Ain*—as it was called until 1927 or 1952,⁹ which was the Legal Code of Nepal enacted during the reign of king Surendra Vikrama Śāha (regn. 1847-81) and promulgated on the 5th or 6th of January 1854 (7 Puṣa, V.S. 1910) under the red seals of king Surendra Vikrama Śāha, crown prince Trailokya Vikrama Śāha and the yellow seal of ex-king Rājendra Vikrama Śāha. It was prepared at the initiative of Prime Minister Jaṅga Bahādura Rāṇā (1846-57 A.D.). Thereafter it has been amended and enlarged several times. The name of this code itself reveals the influence it underwent, namely, the Persian *ā'in* together with the later addition of *mulukī* “royal”.¹⁰ The sources of the text, however, are not only Islamic and maxims of the Indian Moghul administration, but also Dharmaśāstras and surprisingly much customary right.¹¹

However, the influence of the Dharmaśāstra on the *Ain* of 1854 is not evident as far as direct quotations from Dharmasūtra, Dharmaśāstra or Nibandha texts are concerned. Nowhere do such texts seem to have been used as a reference. Rules and principles from the Dharmaśāstra are indirectly applied, i.e. through the fact that religious matters had to be decided by (learned¹²) Brahmins. Moreover, the terminological influence of Western and Islamic law,¹³ which is especially strong in the Mogul terminology of land revenue and taxation, is also weak. It still remains to be discovered to what extent written law books had been used in the Court Council. But given the wealth of empirical cases dealt with in the MA 1854, it could well be the case that the text was more a codification of customary law rather than a deducted application of Hindu and Islamic law.

The significance of the MA 1854 may be seen in, among other things, the fact that it was the first book ever printed in Nepal. It was printed (not before

7 For the little known legal history of Nepal, see: Adam 1934, J.C. Regmi 1976a, Thapa 1985, Vaidya/Manandhar 1985, Śreṣṭha 1999, Khanal 2002, P.R. Sharma 2004, Michaels forthc. (“Nepal”).

8 The following is based on Michaels 1994a.

9 Cf. Adhikari 1976: 106, Vaidya/Manandhar 1985: 192 and Pradhananga 2001: 217.

10 Adhikari 1976: 106.

11 MA 1854/2/1: *nīti, lok-ko anubhāv*.

12 See Michaels 2001.

13 Whelpton 1992: 218, Höfer 1979: 41.

1870 A.D.¹⁴) because Jaṅga Bahādur Rāṇā, during his trip to London and Paris (15th January 1850 til 29th January 1851), came to esteem printed books with an almost magical sense as the expression of Western superiority.¹⁵ Within a month after his return from Europe he appointed a Law Council (*ain kausal*) to bring the already existing various legal documents (*sanad, rukkā, savāl*, etc.) into a homogenous form. His goal was to establish a national caste hierarchy for the multiplicity of Nepal's ethno-cultural units, to bring about a homogeneous legislation as well as a uniform system of administration and, through such legal control over remote areas and separate ethnic groups, to strengthen Rāṇā rule, to reinforce Hindu law in contrast to the British influence in India and to point out that Nepal is "the only Hindu kingdom left in the Kali age" where cows, women and Brahmins are especially protected.¹⁶ The purpose of the MA 1854 is clearly stated in its preamble:

"Prior to this, officers in the various courts and offices in the country, while deciding cases, had awarded different punishments to different persons for the same offences. There was no uniformity in this respect. Henceforth, to all the people, higher or lower, the punishment shall be awarded uniformly in accordance with the committed offence and caste of the offender. Towards this end, the *Ain* (Code) made by the Kausal (Council) comprising *Bahardars* as listed... is promulgated."¹⁷

The MA 1854, which has 163 chapters and nearly 1400 pages is a kind of constitution, a code of civil and penal regulations dealing with land-ownership, revenue administration, hereditary matters, marriage regulations and purity rules (particularly regarding commensality), murder and killing (not only of humans but also of cows¹⁸), theft, witchcraft, slavery etc. But also such odd acts as farting and spitting in public, or throwing chili into people's eyes or onto their genitals are regulated in separate paragraphs.¹⁹ The MA 1854 was repeatedly amended and supplemented and is still in use today, even if in a form that is totally different from the first version.²⁰

14 Fezas 2000: XXVII.

15 Whelpton 1983: 123, Fezas 2000: XXIV.

16 MA 1854-Ed1 p. 8f.: *hiṃdu rāja gohatyā nahunya śtrīhatyā nahunya brāhmahatyā nahunya (...) Kalifyuga]-mā hiṃduko rājya yehi muluka mātrai cha.*

17 Quoted from Pradhananga 2001: 218.

18 Michaels forthc. ("Kuhshützer und Kuhesser").

19 For a table of contents ("table analytique") of the MA 1854, see Fezas 2000: L-LXIV.

20 For a careful description of the sources and various editions of the *Ain*, see Fezas' Introduction to his edition of the MA 1854 (2000) as well as Fezas V.S. 2047, 1983, 1986a and 1986b.

The MA 1888 (V.S. 1945) was brought out 34 years later by Prime Minister Bīra Śaṃśer Rāṇā (1885-1901). It is more or less an abbreviated form of the MA 1854. On its first page the MA 1888 mentions that the previous *Ain* (of 1854) was too long (*lambyāmāna*) and that several chapters were contradictory. Therefore, the Prime Minister amended the *Ain*, making it concise and complete. It is also mentioned that the book was printed according to the wishes of Commander-in-Chief, Deva Śaṃśer Rāṇā.

2. History of the Dharmādhikārin in Nepal¹

One of the most prominent and powerful Brahmins on the courts of Nepal was the Dharmādhikārin, whose position was well established by the Śāha kings in the late 18th century, most likely through direct influence of the Marāṭhās.² Many Nepālī sources use the form *dharmādhikāri*, or ṇ-ī (Nom.) or *dharmādhikār(a)*.³ The term is exclusively used for Brahmins involved in religious jurisdiction, but scholars who have worked on the Śāha or Rāṇā periods, have translated it in a variety of ways. These include “chancellor” or “owner of justice”,⁴ judge (also *nyāyadāsa*),⁵ “owner of justice”,⁶ “righteousness officer” or “enforcer of morals”,⁷ “and chief criminal judge”⁸ or “religious official whose duty it is to give dispensations for branches of caste to those who wish to be received back”.⁹

In the pre-Rāṇā period (i.e. before 1846, when Jaṅga Bahādur Rāṇa became Prime Minister), it was the *rājgurus* (royal priests and preceptors) who had the highest position in the legal administration of the palace. The official title given them was *guru paṇḍita rāja śrī... paṇḍita-jyu*.¹⁰ The chief

1 This chapter is a revised version of Michaels 2001: 67-73.

2 According to Bühler 1894: 53, the function of the *dharmādhikārin* can be dated back to Aśoka. The term itself seems to appear first in Kashmiri sources, e.g. Kṣemendra's *Narmāmālā* II.117 (11th cent.) and Kalhaṇa's *Rājatarāṅgiṇī* IV.588 (12th cent.); cf. Sircar 1965: 373. For the history of the *dharmādhikārin* in India, see *inter alia* Gnanambal 1973: 6 *et passim*, Gune 1953, Sircar 1966: s.v. (pp. 92-3) and Michaels 2001: 64f. with further references. The term also appears in the *Lekhapaddhati-Lekhapañcāśikā* (2.0 v.7; 2.151,2; 2.20.3), a text containing official samples of documents and letters from the 13.-15th century Gujarat (see Strauch 2002, s.v.). The earliest reference to *dharmādhikāra* in Nepal likely stems from a colophon dated N.S. 395 (Caitra śukla 9) or AD 1274 (see Petech 1984: no.1).

3 See especially the usage in the MA 1888.

4 Hamilton 1819: 102

5 J.C. Regmi V.S. 2036: 207.

6 M.C. Regmi 1979: 136.

7 Whelpton 1992: 11.

8 Agrawal 1976: 7.

9 Köslver/Pant 2001: 164.

10 Kumar 1967: 92, Sen/Mishra 1951: Doc. 20, pp. 48 and 149.

of the *rājgurus* was sometimes called *dharmādhikāri*,¹¹ who also acted as the (chief) judge. There could be more than one *rājguru*, but only one *Dharmādhikārin*. This is evident from a *pajani* list—a list of post affirmation or dismissal, respectively, regarding the status of all employers in the palace—dated V.S. 1901 Pauṣa baḍi 3 (27 Dec 1844), and which contains all the personnel of the palace when Mathabar Singh Thapa was *mukhtiyār* or Prime Minister.¹² On this list, eight *rājgurus*, among them the *Dharmādhikāri*, and four *purohitas* are mentioned. It is likely that the *rājpurohitas* were concerned with the religious and ritual affairs of the royal family, such as giving religious advice, performing *pūjā* in the palace and arranging for the rites of passage (*saṃskāra*), etc., while the *rājgurus* were mainly spiritual and legal advisers, who also gave (*tāntrika*) *dīkṣā* or *mantra* to the king and members of the royal family.¹³

There is evidence that the Śāha dynasty had already established the post of the *dharmādhikārin* in Gorkhā, i.e. before they conquered the Kathmandu valley. Thus, it is mentioned in the *Divya-Upadeśa* of king Pṛthvī Nārāyaṇa Śāha, who ascended the throne of Gorkhā in 1743, and then in 1768/69 the thrones of the three kingdoms of Kathmandu, Patan and Bhaktapur, that a *paṇḍita* should work in every court to control the decisions in accordance with the *Dharmaśāstra*.¹⁴ Moreover, it is also stated in a colophon of three chapters (*parvan*) of the *Mahābhārata*, copied Śaka 1659 *Caitra śukla* 10 (1737 A.D.):

*mahārājādhirājakumārāyavarājaśrīśrīrūman nṛpa Pṛthvī-Nārāyaṇa-
mahādevājñayā likhitam idaṃ pustakaṃ śrī-Mokṣeśvara-Śarmanā
dharmādhikāraṇena*

“(....) by the command of crown-prince Pṛthvī Nārāyaṇa Śāha, this book was copied by *Dharmādhikāra Śrī Mokṣeśvara Śarman*.”¹⁵

Finally, the *Gorkhārājavaṃśāvali* mentions that during the time of Rāma Śāha (1614-1636), the work of the *dharmādhikāra* as well as that of the personal clerk (Nep. *khardārī*) and cook (Nep. *bhānsyā*) was given to the Arjyāl Brahmins.¹⁶ The same is mentioned in Rāma Śāha’s Code.¹⁷ Due to

11 *ibid.*

12 Summarised by Kumar 1967: 92 and Adhikari 1984: 316.

13 Whelpton 1992: 11.

14 Stiller 1989: 45 and 63.

15 Quoted after D.R. Panta V.S. 2045: 793; see also *Pūrṇimā* 4: 60-61.

16 *dharmādhikāra khardārī bhānsyā kāma arjyāllāi baksanu bhayo* (*Gorkhārājavaṃśāvali*, p. 792).

the fact that in Maharashtra from the 17th century onwards,¹⁸ where the council of learned Brahmins (*brahmāsabhā*) was presided over by the Dharmādhikārin, it might well be that the tradition of appointing a Brahmin as Dharmādhikārin was imported through the Marāṭhās who still live in West Nepal and are known as Marahaṭṭas.

The duties of the Dharmādhikārin were described as early as 1811¹⁹ by Colonel William Kirkpatrick:

“The Dharma-Udhikar is the chief criminal judge whose business is to pronounce sentence in all cases recognizable by the tribunal, in which he presides on the part of the Rajah, by whom, however, such sentence must be approved before it can be carried into execution.”²⁰

Even more precise are the notes of Brian Hodgson, the British Resident from 1833-1843:²¹

“Eating with those with whom you ought not to eat; sexual commerce with those between whom it is forbidden; drinking water from the hands of those not entitled to offer it—in a word, doing anything from negligence, inadvertence, or licentiousness by which loss of caste is incurred, renders the sinner liable to the censure of the *dharmadhikari*. He must pay the fine called Gao-dan [*godāna*] to the *dharmadhikari*, who will cause him to perform the prayaschitta [*prāyaścitta*]. In such matters only has the *dharmadhikari* concern.”²²

The Nepalese historian J.C. Regmi notes that court cases were often decided by officers working as judges (Nep. *ḍiṭṭhā*, *bicāri*). These cases were then given to the Dharmādhikārin to check whether they were in accordance with the *śāstra* or not. Only when he had signed it, was the decision declared in the court.²³ However, in cases of caste rehabilitation, it was compulsory for the Dharmādhikārin to receive first a formal letter (Nep. *lālmohor*) from the king or the Prime Minister; otherwise he could be fined or dismissed (MA 1854/89/4). Kirkpatrick suggests that the Dharmādhikārin could delegate his

17 MA 1854-Ed1, *Parīṣṭa ka* (= App. 1), 22. *thiti: dharmādhikār sardāri bhānsyā yeti mānakā paṇi arjyalai lāi baksanu bhayo...*

18 Gune 1953: 3, 60, 110ff.; cf. Höfer 1979: 200.

19 For another early document of the *dharmādhikārin*, see *Regmi Research Collection*, vol. 39, p. 302: “Royal Order Regarding Expiation for the Offence of Taking Water from the Hands of Gaines”, dated Śrāvaṇa baḍi 10, 1867 (1810 A.D.).

20 Kirkpatrick 1811: 201.

21 On his Hodgson’s biography, see Hunter 1896 (1991).

22 Hodgson 1880/I: 214.

23 J. C. Regmi V.S. 2036 (1979): 207.

duties to local officers and landlords who had tenurial authority over certain areas:²⁴

“The under judges, in every part of the kingdom excepting the formed districts, hold their appointments from him, and in most cases they require the seal of his confirmation to render the judgements they pass valid.”²⁵

The documents and texts prove that the *rājguru/dharmādhikārin* was one of the most influential posts in the royal administration. In the mid-19th century the *rājguru* seem to have been “an official whose rank and influence may be considered as second only to the Minister”.²⁶

According to the list of *signatores* (Nep. *tapasīl*) of the preamble of the *Ain* of 1854, the juridical hierarchy in the Rāṇā period, which was also expressed at ceremonial occasions, is the following.²⁷ On top stands the king as the supreme legislative and executive authority in a formal sense; he is, however, not mentioned in the *tapasīl* of the MA 1854. The *de facto* ruler was the Prime Minister, who considered himself as the prime representative of the king. Next in the hierarchy are the 14 brothers of Jaṅga Bahādur Rāṇā, who kept military ranks. Then follows the Minister (Nep. *kājī*) Raṇa Śer Śāha, and the list continues with three pandits, the *rājguru*, *dharmādhikārin* and *rājpuṛohita*: *śrī guru rājapaṇḍita śrī dharmādhikāra Vijaya Rāja [Pandey] paṇḍitjyu, śrī guru rājapaṇḍita śrī Nāgendra Rāja paṇḍitjyu* and *puṛohita Tīrtha Rāj paṇḍita*.²⁸

The life of the above mentioned Dharmādhikārin Vijayaraj Pandey has been well documented and described in a biography by Prakash A. Raj. Vijayaraj Pandey was born in 1808 (V.S. 1865) as a son of Nāgeśvara Pandey in the family of Laxman Pandit. In 1841 he was given employment in the palace as a reciter of Purāṇas.²⁹ Four years later and one year before the Koṭ Massacre (1846) he was appointed by king Rājendra Vikrama Śāha (regn. 1816-1847) as *rājguru* and *dharmādhikāra* by the following document:

[1. Svasti śrī girirājacakraṇḍāmaṇi naranārāyaṇatyādi vividha virūdāva

24 Kirkpatrick 1811: 201, cf. J.C. Regmi V.S. 2036: 207.

25 Kirkpatrick 1811: 201; for a list of these officers and representatives of the Dharmādhikārin, see the MA 1854/89/51,60; cf. also Höfer 1979: 196.

26 Cavenagh 1851: 55.

27 See Kumar 1967: 99f. for a similar ranking at ceremonial occasions.

28 MA 1854, p. 3.

29 Raj 2053: App. 4c.

2. *virājamāna mānonnata śrīmanmahārājādhirāja śrī śrī śrī mahārāja Rājendra*
3. *Vikrama Sāha Bahādura Śamśera Jaṃga Devānām sadā samara vijayīnām.]*
4. *āge Vijayarāja Paṇḍita Pāmde ke śrī gurū [sic!] paṇḍitarāja Janārdana*
5. *Paṇḍitajyūkā śāyela samvat 1902 sāla kārtika vadi 1 roja dekhi 1903*
6. *sāla āśvina sudī 15 roja samma varṣa 1 dharmādhikāra mānako pagari*
7. *vakasyauṃ. āphnā śātirajāmāsita bhara mulukakā cāra varṇa chatīśai jātakā*
8. *bhāta pānī saṃsarga ra chinako kurā pakṣa jāci bujhi śāstra herī yathokta*
9. *pārī chin anusāra bheṭi dhakṣiṇā lī pūrjīmā chāpa lagāi anusāra*
10. *prāyaścitta dīnyā kāma gara iti saṃvat 1902 sāla miti kārtika vadi 5 roja 2 śubham.*

“[1-3: *praśasti* of king Rājendra Vikrama Śāha]. To Vijayarāja Paṇḍita Pāmde: The honorary post of *dharmādhikāra* enjoyed by the Venerable Gurupaṇḍitarāja [i.e. *rājguru*] Janārdana Paṇḍita has been given to you for (the period of) one year, from B.S. 1902 Kārtika vadi 1 to 1903 Āśvina śudi 15 (Oct./Nov. 1845 to Sept./Oct. 1846). Perform your duty of granting *prāyaścitta* by stamping the writs, showing your sympathy to the people of the 4 *varṇa* and [36] castes (*jāt*)³⁰ all over Nepal after examining [in cases of violation against the rules of commensality] the matter of cooked rice, water, contamination and the final decision of the courts (*china*)³¹ enquiring and consulting the religious texts and collecting the gifts and offerings according to the final decision of the court. Dated: Saṃvat 1902 B.S. (1845 A.D.) Kārtika vadi 5 Monday. [May all be] auspicious.”

Vijayaraj Pandey was officiated as *dharmādhikārin* from 1902 B.S. to 1921 B.S. (1845-1864 A.D.). Afterwards he went for Kāśīvāsa in Rāmghaṭ at Varanasi. As a *rājguru*, he used to get four-thousand rupees for his yearly salary.

The high position and great power of the *rājguru/dharmādhikārin* can also be shown by the fact that a special army (*guruju-ko paltan*) was stationed as guards of his house. Remnants of this still exist and show up at certain festivals. It would be wrong, however, to exaggerate the power of the Dharmādhikārin in criminal or even religious offences. In the pre-Rāṇā period, the king continued to be the supreme authority in such matters since

30 See the translation of chapter 89 of the Ain of 1854, § 20, fn. 11.

31 Pokharel 2040: 451: *chin-nu: muddā-māmilāko antīm nirṇaya dinu.*

important cases were decided or confirmed by him.³² And in the Rāṇā time, the Prime Minister could always interfere in the decisions.³³ He could, for instance, suspend decisions of the courts and even disregard the written law by considering himself as a "law unto himself".³⁴ It is true that most cases were not decided by the king or the Prime Minister, but rather by various courts of justice (*adālat*, *amāli*, *bhārādāri kausal*, *aḍḍā*, *kacaharī*) which included the Dharmādhikārin as a judge.³⁵ In some cases, however, the Prime Minister did interfere in the court decisions during his audiences. Moreover, in major decisions, such as a degradation or capital punishment, or if the MA 1854 was found to be at variance with common practice (*ainmā vihorā namilnyā kurā pariāyā bhanyā*), the courts of justice had to contact the Court Council (*bhārādāri kausal*) which consisted of 230 noblemen, including all the senior Rāṇās, royal priests (*rājguru*), royal collaterals (*chautariyas*) and many civil and military officers.³⁶

Interestingly, the Brahmins formed only a minority with thirty out of 219 members in the council (*kausal*) which was set up by Jaṅga Bahādur Rāṇā after his return from England in order to compile the first *Ain*. The majority was held by *kṣatriyas*: thirty-one dignitaries belonging to the Rāṇā family, four Śāhas from the royal Thākuri caste, and more than ten members of various Chetri castes.³⁷ The influence of the nobility on the MA 1854 can also be seen by the special treatment of the Mecyā caste³⁸ (from which many of their servants were recruited), the special juridical function of the Prime Minister (MA 1888/5.32/28), or the exceptional treatment of soldiers (MA 1854/89/7, 25-26). The influence of the Brahmins on the *Ain* of 1854 can be seen in certain special measures against the impurity of their caste status. Thus, persons falsely claiming the rank of a *brahmāṇa* were punished (MA 1854/89/44-45), and the precautions against the lower Jaiṣī Brahmins (MA 1854/89/69) may also be regarded as a sign to protect the pure status of the Upādhyāya Brahmins.

As mentioned above, the work of the Dharmādhikārin was not facilitated by references to already existing law books. He was not, as in British India, asked to use existing law books or to produce new ones. He had to decide

32 J.C. Regmi V.S. 2036: 207.

33 See MA 1888/5.32/28.

34 Kumar 1967: 85.

35 Cf. Hodgson 1880/I: 213.

36 MA 1854/35/11, see also Höfer 1979: 196 n. 15.

37 See also Gaige 1975: 166, Höfer 1979: 42.

38 MA 1854/89/49, see Höfer 1979: 100.

according to the customary law of the country by applying Hindu law principles of penance and religious codes of ethics.

If, then, the authority of the Dharmādhikārin was limited by the Rāṇā aristocracy, what constituted his high rank? As it seems, the Dharmādhikārin was neither necessary for his knowledge nor for spiritual or priestly functions, he was usually not even required as a judge since most cases were decided by other non-Brahmin judges, officers or the Prime Minister himself. But he was needed in cases of impurity. For this work he had to be a good Brahmin of impeccable character—see, for instance, *Mānasollāsa* (2.93-94):

smṛti-śāstrārtha-kuśalā rāga-dveṣa-vivarjitāḥ
dharmādhikāriṇaḥ kāryā vilobhā bhaya-varjitāḥ

“Such dharmādhikārins shall be employed by the king, who know the meaning of the *smṛtis* and *śāstras*, who are free from attachments and hate, and who are without (any) greed and fear.”

Moreover, the Brahmin had to be compensated for “taking on the evil” of the king’s subjects.

Thus, we can conclude that the Dharmādhikārin in 19th century Nepal had more power than authority, and that this power was based on his Brahminhood and his capacity of “eating and digesting the evil” caused by impurity. Both the king and the Dharmādhikārin participated in this form of Hindu indulgence, but it was only the Brahmin Dharmādhikārin who could transform, as Heesterman would have it, *pāpman* into *śrī*.³⁹

39 Heesterman 1964: 4.

3. The Duties of the Dharmādhikārin

According to the Ain of 1854, ch. 89, the main duty of the Dharmādhikārin was to grant expiation (*prāyaścitta*) and rehabilitation (*patiyā*) in cases where somebody had been afflicted by impurity¹ so that those persons who accidentally or unknowingly (Nep. *bhor*) had been polluted by sexual or commensal contacts with impure persons, including spouses and other family members, could get a partial or full readmission to their caste. For this purpose the Dharmādhikārin had to issue a writ or certificate of rehabilitation (Nep. *patiyāko purjī*), a kind of letter of indulgence.

The reasons for impurity had mostly to do with illegitimate physical contacts as well as biological changes, especially death, birth and menstruation. According to the MA 1854, illegitimate or impure contacts or acts are:

(a) illicit sexual intercourse (*karaṇi*);

(b) the illegitimate eating of cooked food, mostly boiled rice (*bhāt*),² and accepting water (*pāni*) from the hands of caste members or defiled persons whom one is not allowed to touch;

(c) criminal offences, such as murder or any other crime sentenced with capital punishment, branding, degradation, life imprisonment or the confiscation of ancestral property;

(d) contact with persons undergoing certain biological changes, such as death (*mṛtyuko sutak*, *juṭho*³) and childbirth, or with bodily excretions, especially with those of a woman in confinement.

Perhaps the most common case which had to be decided by the Dharmādhikārin is MA 1854/89/56,⁴ which can be summarised as follows:

(1) If somebody knowingly (*jāni jāni*) accepts cooked rice and/or water from the hands of somebody who is

(a) sentenced to life imprisonment,

1 For a more detailed study of the terminology and classification of impurity in the MA 1854, see Höfer 1979: 49-52, from which I slightly differ.

2 With the exception of sweetened rice cooked in milk (*khir*): MA 1854/89/33,47. The reason could be that ghee is often added to *khir* which is considered to have a purifying effect.

3 See Höfer 1979: 50 fn. 4.

4 See also MA 1854/90/3.

- (b) degraded,
- (c) belongs to a lower caste, or
- (d) is involved in illicit sexual intercourse,
- (2) and if this person then intentionally (*jāni jāni*) lets another eat from his hands—
- (3) his share in the ancestral property will be confiscated, which also means that he will be degraded and thus not receive rehabilitation (*patiyā*).
- (4) If, however, he does not feed others, he is “only” degraded.
- (5) If someone eats cooked rice and/or water given from a person mentioned in (1a-d) without knowing about his guilt, he can get full rehabilitation.

Impurity could have been temporary or permanent. Impurity due to childbirth, for instance, affected the mother and her relatives only for a certain period while degradation to a lower caste could have been life-long and even transferred to other generations depending on the gravity of the case. Here the Dharmādhikārin played a decisive role. If somebody was in a state of impurity because he had had an illegitimate sexual relationship, he could either be degraded or—through expiation—rehabilitated to his former caste status, and thus again be declared pure. Thus, to be pure (*śuddha*), meant to remain what one is (i.e. to change one’s ascribed status only within the limitations of the caste norms), whereas to be impure meant to be socio-ritually imbalanced. It must, therefore, be stressed that purity (*śuddha*, *śauca*) is a term which denotes both a permanent-collective high-caste status, i.e. the “Water-Acceptable” pure castes (*śuddha* or *cokho jāt*) as well as the temporal, always endangered state of not being impure (*aśauca*, *sūtaka*).

The MA 1854/89/56 also suggests that the main culprit is not the focus of the Dharmādhikārin’s sentences, but the person who is indirectly afflicted by the consequences of the main culprit’s offences. In other words, those who are imprisoned, branded or degraded generally could not receive rehabilitation and did not fall under the jurisdiction of the Dharmādhikārin, but of the king or Prime Minister,⁵ although penalties were regarded as expiatory. Such a person was socially “lost”, and the Dharmādhikārin could only grant *patiyā* after a certificate had been issued by the courts of justice (*adālat*, *thana*, *amāli*). If he violated this rule, he was dismissed and had to pay a fine of Rs. 500 (MA 1854/89/4).

Any person who had contact with a polluting guilty person endangered losing his status of purity. Thus, some sort of penance might be required in

5 See MA 1854/89/4.

order to reinstate the previous status, and by so doing the moral order of the state as well. For this purification-cum-reinstatement, the Dharmādhikārin was required. And it is explicitly mentioned in the MA 1854 that only this Brahmin official (or one of his Brahmin representatives) could grant expiation (i.e. *patiyā*). Both the Brahmin Dharmādhikārin and the king (or Prime Minister) share traditionally in upholding the (moral) order (*dharmā*). It is obvious that the Dharmādhikārin, therefore, functioned as a kind of medium between personal expiation and social rehabilitation, even if he was in general more concerned with minor cases of impurity, especially those cases where no intent was involved.

Though rehabilitation through *prāyaścitta* and/or *patiyā*⁶ was mainly necessary to reduce the consequences of violating the strict caste order, the fact remains that the offences also affected others, who were mostly relatives, and not the main culprits. We thus have two law principles at work: personal guilt and the liability of all members of a family or clan for the crimes of one of its members. The culprit is legally responsible for the consequences of his offence with regard to his own life (in "this world" and in his "next life") as well as to his relatives or other persons, including subsequent generations. The kinship members and ancestors can escape these punishments through rehabilitation. From this it follows that, to a certain extent, transferring impurity is more dangerous than being polluted. The MA 1854/89/28, for example, clearly says that any high caste member who has knowingly had illegitimate sexual or commensal contact with a lower caste member will be degraded. But he will be additionally punished with the confiscation of his ancestral property if he afterwards, i.e. while in the state of impurity, offers food to others.

According to the *Ains* used in the present book, the cases (or paragraphs) which concern the Dharmādhikārin can be classified into three categories of rehabilitation: a) rehabilitation which is not possible, b) rehabilitation which is possible, and c) rehabilitation which is not necessary.

3.1 Punishment without rehabilitation (*patiyā nadinu*)⁷

Rehabilitation could not be granted in cases of the following cases of punishments:

6 I use the term "rehabilitation" as a paramount term for absolution or expiation (*prāyaścitta*) and readmission to the previous commensal status or caste (*patiyā*). Both terms will be explained in ch. 4.1-2.

7 Cf. MA 1854/89/4.

3.1.1 Capital punishment (*jyān jānyā dāmal* or *jyān jānyā*): MA 1854/35/19-30

Although, to my knowledge, it is not clearly stated anywhere in the MA 1854, capital punishment implied degradation for the guilty person without rehabilitation. The relatives, however, could get a kind of posthumous rehabilitation called *kṛyā-ko patiyā*: see chapters 3.2.3 and 3.4.1. In classical Hindu law, the death penalty was generally recognised as expiation (*prāyaścitta*), especially if it took the form of a suicidal penance-unto-death.⁸ But this is not explicitly confirmed by the MA 1854.

The death penalty was mostly sentenced in cases of homicide.⁹ However, the MA 1854 differentiates between lawful killings (e.g. in self-defence, defending private or public property, avoiding a cow slaughterer, defeating an adulterer, and causing death to pregnant women during delivery, or to prisoners and children below the age of eight years) and unlawful homicide (especially murder, infanticide and accidental homicide).¹⁰

3.1.2 Life imprisonment (*janabhar kaid hunyā dāmal* or *kaid*) with branding (*aḱṣar khodnu*): MA 1854/89/25-6

Life imprisonment or its substitute for Brahmins, i.e. (*muḍinyā*) including the top-knot (*śikhā*) so that the culprit loses his or her ancestral line, could be sentenced with or without branding the initial letter of the name of the degraded caste (*jātkā aḱṣar*) on the face (mostly on the left cheek).¹¹ In both cases, it implied degradation without any possibility of readmission to one's former caste. However, if the guilty person was not branded and was allowed to fight in a war where he showed extreme bravery, i.e. putting his life on the line, he could get rehabilitation for water in the case of incest as well as rehabilitation for water and rice equivalent to the readmission to the former caste in other cases mentioned in the MA 1854/89/25. However, if he was branded, he could only get a partial pardon (*takṣīr māph*): see MA 1854/89/26. Life imprisonment is generally combined with the confiscation of one's share in ancestral property (*sarvasva garnu*).

8 Manu 11.73, 90-91, 99-100, 103-104; Yājñ 3.247-248, 253, 257; ĀpDhS 1.9.24.25; GautDhS 22.2-3, 23.1, 8-11.

9 For a detailed study of this topic, see Pradhananga 2001.

10 MA 1854/63 (*Kāṭchu bhani hatiyār jhikanyā*), 64 (*Jyānmārā-ko*), 65 (*Bhavitabya-mā jyan māmyā-ko*), 143 (*Jatak mārā-ko*). These chapters have been translated by Pradhananga 2001: App. 1.

11 Cf. MA 1854/42/1ff.

3.1.3 Degradation (*patit*): MA 1854/89/23¹²

Degradation is sentenced in a number of offences, such as incest (MA 1854/89/39 and 55-6¹³), sodomy,¹⁴ conversion (MA 1854/89/35-6),¹⁵ wearing the Sacred Thread illegitimately (MA 1854/89/37), claiming a Brahmin caste status illegitimately (MA 1854/89/44-5), illicit sexual intercourse¹⁶ or forbidden commensal relations.¹⁷

A change in the caste status by degradation can be temporary or definite, voluntary or forced by the law. In classical Hindu law, *patita* is somebody who has been expelled or who has “fallen” from the community of the Twice-born.¹⁸ The MA 1854 reflects the old classification¹⁹ of evil actions, which cause either degradation (*patanīya*, *upapatanīya* or *upapātaka*) or “just” impurity (*aśucikara*).

In the case of temporary degradation, rehabilitation and readmission to the former caste could have been possible (see below). But in the case of permanent degradation, readmission to the former caste could not be given. Such degradation could have been either voluntary, if a person had repeatedly consumed cooked food from the hand of a lower caste person (e.g. a second wife or somebody adopted by the parents of lower caste), or it could have been a penal degradation, including penal enslavement and the confiscation of ancestral property.²⁰ In the latter case, the guilty person was shaved and forced to eat impure food (*abhakṣ khvāunu*).²¹ Additionally, the person could be branded. Definite degradation also meant being sentenced to a Wearer of the Sacred Thread (*tāgādhāri*) for persons, who, after knowingly accepting impure food, let other caste members eat from his hands (MA 1854/89/28, 33 and 56). Wearers of the Sacred Thread could also be deprived of their Sacred Thread (MA 1854/89/35).

12 See also MA 1854/89/33, 35, 55-56.

13 Höfer 1979: 87f.

14 Höfer 1979: 88.

15 Höfer 1979: 157-160.

16 Höfer 1979: 69ff.

17 Höfer 1979: 53ff.

18 Manu 11.184-188; Cf. Jolly 1896: 119, Höfer 1979: 177-9. According to Wezler (1995: 106 fn. 39), the *patita* has to be differentiated from the *śūdras* as well as from the so-called Untouchables.

19 See, for example, BaudhDhS 2.1.2.12ff.; Gampert 1939: 31ff.

20 Höfer 1979: 124-131.

21 See, for example, MA 1854/89/24, 1888/5.32/2.

3.2 Rehabilitation (*patiyā* or *prāyaścīd dinu*)

The majority of cases in the chapter on the Dharmādhikārin in the *Ains* of 1854 and 1888 concern the possibility of rehabilitation, which was mostly granted to persons to whom sin, evil or impurity had been transferred, as well as in a number of cases with mitigating circumstances. More specifically, rehabilitation was given to indirectly affected persons (spouses, children, mourners, etc.) in special cases of emergency (e.g. persons travelling to a foreign country, soldiers) or in cases of juridical error and pending cases (see ch. 5.3-4). However, besides the objective aspects of the crime (illegitimate contact, temporal degradation or impurity by death etc.), the subjective or intentional aspects of the crime (intent or ignorance (*bhor*)), as well as the formal criteria (e.g. report) are equally important for a partial or full rehabilitation.

3.2.1 Spouses: MA 1854/89/20, 21, 32; MA 1888/5.32/63, 33

Through daily life, wives, husbands and children (see below) were often at risks of making contact with a person who was polluted or degraded. They were therefore heavily endangered by impurity. The MA 1854, following the norms of the Dharmaśāstra, did not recognize a sphere of privacy which was not pervaded by the law. On the contrary, it controlled the most intimate relationships of the family, namely sexuality and commensality, to an extent that its investigation seems to be, at least in some cases, unlikely. Wives are not only obliged to keep in sexual or commensal distance to their impure partners, they were sometimes also asked to report to the court about commensal infringements of their husbands (MA 1854/39/3). It is noteworthy that sexual contact with a person of a lower caste was not necessarily punished, but the violation of commensal restrictions resulted in immediate censure of the culprit.²²

Rehabilitation granted to the husband was also valid for the wife and the children (MA 1888/5.32/5). But if no rehabilitation for him was possible, the wife could get it only if (1) she had no knowledge about his impurity or degradation (MA 1854/89/20, 21), (2) she lived separately, (3) did not accept rice and water from her husband (4) was not pregnant (MA 1854/89/32), and (5) if she informed the court ahead of time (MA 1854/89/20, cf. MA 1888/5.32/33). In other words, a wife who had sexual contact with her

22 Cf. Sharma 2004: 130.

degraded (*patita*) husband or accepted food from him was also degraded (MA 1854/89/21 and MA 1888/5.32/6).

There was, however, an important difference between sexual contact and commensality in a marriage. The chapters on the Dharmādhikārin were more concerned with regulating illegitimate commensality than illegitimate intercourse. Pollution was brought about less by intercourse than by eating food from the husband.²³ A wife could, therefore, get rehabilitation for herself and the children if she did not know about the impurity of her husband or if she had neither intercourse with him nor accepted cooked food or water from his hands, including not allowing other relatives to consume cooked food or water from him (MA 1854/89/22).

It is obvious from these and other regulations²⁴ that a marriage did not legally imply commensality or intercourse, although one may doubt to what extent such rules were observed in daily life. As a man, under certain circumstances, was not obliged to accept food from his wife (MA 1854/89/34),²⁵ the wife was not obliged to eat with her husband if he was polluted. Commensality thus indicated certain equality in caste status, and thus could even be enforced by the legal obligation to accept cooked rice and/or water. The husbands and relatives (except for Upādhyāya Brahmins who took the highest rank in the MA) had to accept the food cooked by their wives if the women were of equal status (MA 1854/89/34). The case of the Meciya caste, who were formerly slaves in the Royal Palace that had been upgraded by a special decision of the Bhardari Council (dated V.S. 1917 Pausa baḍi 1), is especially telling insofar as both the Parbatīya and Tharus were obliged by this order to take water from the hands of the Meciya (MA 1854/89/49).²⁶

A final, somewhat exceptional case for degradation would be a widow who has prepared to perform *satī*, i.e. to burn herself together with her dead husband.²⁷ If she changed her mind after that decision, she was degraded to a Water- acceptable Caste and could thus only get a partial rehabilitation (MA 1854/94/19).

23 Cf. Höfer 1979: 73.

24 Cf. Höfer 1979: 69-79.

25 Höfer 1979: 73f.

26 Cf. Höfer 1979: 100.

27 For a detailed treatment of *satī* in the MA, see Michaels 1993 and 1994a.

3.2.2 Children: MA 1854/89/16,20-3,27-8,30-1,38-9, 54; MA 1888/5.32/6

A full rehabilitation granted to the mother or father (MA 1854/89/38) was usually valid for their children as well (MA 1854/89/22; MA 1888/5.32/6), even if they were still in the womb (MA 1854/89/20). Similarly, degradation affected both parents and children (e.g. MA 1854/89/21). The children of degraded parents could have received rehabilitation to their original caste if petitions had been made before the age of twelve, even if they had accepted food from their parents. The same holds true if they were between twelve and sixteen but had no relatives to look after them (MA 1854/89/30). The age of morality, therefore, was twelve.

There were, however, a number of exceptions to these rules. If, for instance, a mother died before receiving rehabilitation, the children could still receive it (MA 1854/89/22). Other exceptions include a wife who had intercourse with her husband without knowing that he had committed adultery, thus enabling her for full rehabilitation for water and rice. If, however, she became pregnant afterwards, she could get rehabilitation for water only (MA 1854/89/21, MA 1888/5.32/6), and the children would be admitted to different castes according to the status of the father and the woman involved (MA 1854/89/23, 38-9). If children between the age of eleven and sixteen shaved their heads and joined groups of ascetics before their initiation (*vratabandha*),²⁸ their castes remained the same but only if they did not interdine with their gurus (MA 1854/ 88/5).

Children could also be the reason for the rehabilitation of adults. If, for instance, someone adopted a child which had been abandoned by his or her parents, and if the parents were found afterwards, the foster parents could get rehabilitation provided the child belonged to a lower caste (MA 1854/93/1).

3.2.3 Mourners: MA 1854/89/10-12; MA 1888/5.32/4,9,20-21

In some severe cases, e.g. capital punishment, life-imprisonment or degradation, a posthumous rehabilitation was required in order for the surviving relatives to be able to perform the death rites. This rehabilitation was called *kryāśuddha-ko patiyā*, "readmission to one's caste on the grounds of the purifying death rites".²⁹ On request and after paying a fee (*godāna*),

28 For "ascetic" children (*bālyogīs*) in Nepal, see Michaels 1986.

29 Details are dealt with in MA 1854/95 (*Murdā uṭhyānyā*, "On carrying the corpse"), MA 1854/96 (*Maryo bhani sunānyā*, "On the information of death news") and MA 1854/97 (*Sauca vāmyako*, "On the observation of [death] impurity"). For Hindu death rituals in Nepal, see Michaels 2004a and Gutschow/Michaels 2005.

the relatives could thus get the permission to burn or, in rare cases, to bury the corpse. See, for instance, MA 1854/95/1:

“If anybody from the Wearers of the Sacred Thread Castes like Brāhmaṇa, Rājapūta, Kṣatriya, etc. dies [and] there is nobody from the same caste to carry (*uṭhāuna*) the dead body [to the cremation grounds, in such a case], among the Wearers of the Sacred Thread (*tāgādhāri*), it shall be allowed to touch [and] carry the corpse of a higher caste by the lower caste and the corpse of a lower caste by the higher caste. If there are no [persons from the] Wearers of the Sacred Thread Caste[s], somebody from Water-acceptable Alcohol-drinker Caste[s] shall carry [the corpse of someone from the Wearers of the Sacred Thread]. If a dead body from the Wearers of the Sacred Thread caste is touched [or] carried by a person from the Water-acceptable Alcohol-drinker caste, a fee (*godāna*) shall be offered to a *brahmaṇa* [of up to] 5 *ānā* to 5 rupees in the name of the dead person, according to the ability [to pay] by the person who performs the death rituals (*kriyā*). No *patiyā* [and] *prāyaścitta* are necessary [to perform].”

If the relatives performed the death rites without permission, they would be fined, but could get rehabilitation from the Dharmādhikārin. If they neither paid the fine nor received rehabilitation, they were then regarded as Untouchables (MA 1854/ 89/12). It is thus quite clear that the death penalty itself had no “automatically expiatory effect to the execution itself, leading to the guilty person’s redemption”³⁰ as some classical Dharmaśāstra texts prescribe. It was necessary to readmit the dead person to his or her former caste by granting a posthumous absolution.³¹ Similar regulations exist for persons committing suicide—and for their relatives (MA 1854/89/8-9; MA 1888/5.32/3,22). However, such a rehabilitation was not necessary if a person or cow died in an accident (MA 1854/97/47). Moreover, certain persons such as Vaidya, washermen, slaves (MA 1854/97/64) and also the king (MA 1854/97/43) were exempt from death pollution.

3.2.4 Persons travelling to a foreign country (especially soldiers): MA 1854/89/70,71; MA 1888/5.32/7,8

These cases mostly concerned traders and soldiers (but not pilgrims) for whom it was at times difficult to stay separate and cook for themselves. They had to get rehabilitation after their return, which was granted when they reported independently. However, these regulations were added to the MA of

30 Höfer 1979: 180.

31 *prāyaścīt-ko patiyā*: MA 1854/89/10.

V.S. 1910 on V.S. 1922 *Baiśākha badi 1*, i.e. twelve years after the promulgement of the first *Ain*. In the MA 1888, the rules for soldiers were again clarified since it was the soldier's duty (*dharma*) to fight in war and join (foreign) armies, e.g. the English Company or British Government (MA 1854/89/70). Soldiers did not lose their caste status easily, and only when sufficient evidence for an illegitimate commensal behaviour was given. The burden of proof was somehow reversed, but the soldiers seemed to have been morally requested to get rehabilitation, a thing that even Jaṅga Bahādur Rāṇā received after his return from Europe.³² Such regulations indicate once again the privileged treatment given to the *kṣatriya varṇa*. The same holds true for a kind of probation called death absolution (*dehānta prāyaścīt(ta)*), which was granted to men who were willing to go to war for the king and to fight unto death, a form of ritual suicide in which courage and bravery had an expiatory effect (MA 1854/89/25-26).³³ Similar regulations are found in the *Mahābhārata* (12.165.46), according to which the killer of an embryo should go to war prepared to die in order to expiate his sins. Traditionally, persons travelling over-seas had to get rehabilitation after their return:³⁴

atha patanīyāni. samudrasaṃyānam.

"Next, the sins causing loss of caste: undertaking a sea voyage..."
(BaudhDhS 2.2.1-2)³⁵

3.2.5 Other cases of emergency (e.g. self-defense): MA 1854/89/7, 29; MA 1888/5.32/8

If somebody was sick or in a helpless condition, and thus more or less forced to accept cooked rice and/or water from the hands of a member of a lower caste, he could get absolution (*prāyaścitta*); apparently, the question of readmission to one's former caste did not arise. Rehabilitation to persons who were temporarily insane could also be granted, provided his or her normal senses came back, which was proven by their capability to know their address (MA 1854/89/7; MA 1888/5.32/23). Likewise medicines containing water could be accepted from members of impure castes: MA 1854/74/18.

32 Rana 1974: 128, 134ff., 153, 156; Cf. Höfer 1979: 154 with further references to Nepalis traveling to foreign countries.

33 See Michaels 1992 and Wezler 1995: 119.

34 See Arp 2000 for a thorough study on that subject.

35 Cf. Manu 3.158, 166-167.

3.2.6 Misconduct (*anācāra*): MA 1854/89/40-43, 48, 65

In some cases, rehabilitation was granted due to ritual or customary consideration. Apparently, these cases were not judged as offences but as a kind of tolerable misconduct (*anācāra*, cf. MA 1854/89/17). If, for example, somebody drank water used for washing the feet during a marriage it was in most cases not punishable (MA 1854/89/40-41). The same held true for those cases where a Brahmin accepted certain ritual food (*sidhā*), gifts (*dakṣiṇā*) or *ṭikā* from a lower caste (MA 1854/89/42-3, 65). If the eater or cook wore unclean clothes (e.g. leather), some unspecified form of rehabilitation was possible (MA 1854/89/48). Feeding someone with stool or urine could, under certain circumstances, also be considered a (minor) case for rehabilitation (MA 1854/60/4-6). The same held true for feeding others with stool or not washing the hands after defecation and feeding others (MA 1854/60/4-6, 92/6) or unwillingly drinking sperm or menstrual blood (MA 1854/60/15). Hitting (*pādyo*) someone on the mouth (MA 1854/61/2-5) also warranted rehabilitation. Finally, smoking the hookah (*hukkā*) without regarding the caste of other smokers could equally be regarded as a case for rehabilitation (MA 1854/87/29).

3.3 Rehabilitation is not necessary (*patiyā* or *prāyaścīt pardaina*)

In the five following cases, it was explicitly mentioned that rehabilitation was not required. Persons were not required to obtain a certificate of rehabilitation and were not to be punished with a fine. They kept their caste: *jātai-mā rahaṃchan* (MA 1854/89/46-48 *et passim*).

3.3.1 Eating stale food: MA 1854/89/46, 47

If a person belonging to Wearers of the Sacred Thread took cooked rice or other food which had been prepared in the morning or on the previous evening, he was not deemed to have committed any offence provided that no other impure person had entered the kitchen in the meanwhile. This was not in accordance with the Dharmaśāstra rule:

kṛtānnaṃ paryuṣitam akhādyāpeyanād yam.

“He shall not eat, drink or consume cooked food that has been left overnight.” (ĀpDhS 1.17.17)

3.3.2 Eating milk rice (*khir*): MA 1854/89/47

The same held true for any person who ate rice cooked in milk (*khir*) in a cowshed which had been left overnight and touched by a person from whose hands cooked food normally could not be taken. Most likely, the purifying location and the ghee added to the *khir* helped purify that person.

3.3.3 Wearing unclean clothes while eating or cooking: MA 1854/89/48

If any member of Wearers of the Sacred Thread took rice cooked by a person of the same or higher rank who was wearing a blouse (*labedā*) and trousers (*suruvāl*) made even partially from leather, or if he was wearing such impure material himself while eating, this was not regarded as a serious violation of the Brahmanic rule stating that one should always wear pure dresses during meals.

3.3.4 Eating unacceptable food (*abhakṣ*) by children under age twelve: MA 1854/89/54

If initiated children below the age of twelve and belonging to the Wearers of the Sacred Thread took any unacceptable food which led to the loss of his or her caste, then later had children themselves and died without obtaining *patiyā*, but if their funeral rites had been performed by their parents after obtaining a certificate of rehabilitation to perform funeral rites (*kṛyā*), their children did become ritually pure after their Sacred-Thread-investment, wedding and other ceremonies were performed according to the customs and usages of the caste to which they belong. They did not lose their caste, and their relatives could consume cooked rice from their hands.

3.3.5 Death by accident: MA 1854/79/47

Prāyaścīt for death rituals was not necessary if somebody died from an accident, such as falling down, drowning, and burning in a fire, or being killed by an animal, landslide or thunderbolt. Such cases were regarded as bad, impure and demonic forms of death, and the *nārāyaṇabali* rite along with the regular death rituals had to be performed.

3.4 Actions performed with or without intent (*bhor*)

All forms of rehabilitation concerned not only the objective aspects of a crime, i.e. the action itself, but also the subjective aspects (intent, motive, knowledge of unlawfulness, repentance, confession of one's sins, etc.). The most important subjective aspect of a crime in the MA 1854 was the intent of the guilty person, which could lead to an increase in the severity of a penalty (Cf. MA 1854/89/33). Offences committed knowingly (*jāni jāni*) i.e. with intent, were contrasted with actions committed in ignorance, called *bhor*, which could lead to mitigation or even exemption from punishment. Moreover, it was a precondition that the culprit—following the tradition of the Dharmasāstra³⁶—confess his sins by approaching the Dharmādhikārin voluntarily: "The voluntary submission to penances is essential."³⁷

In most cases, *bhor* implied that a person who had a commensal or sexual contact with impure persons did not know about their status.³⁸ However, in some cases *bhor* also meant a sort of procedural mistake or lack of evidence (MA 1854/89/19, 20). If, for example (MA 1854/89/19), adultery could not be verified because the accused person ran away, all persons who had had contact with the suspect could get rehabilitation on the grounds of ignorance (*bhor-ko patiyā*). In cases involving *bhor*, the accused person could be exempted from any punishment or be (partially) rehabilitated by the Dharmādhikārin.

Apparently, claiming *bhor* was a question of confidence. In the closed society that Nepal was in the 19th century and by most measures still is, an oral confession (*jamān baṃdi*: MA 1854/89/6,42,60-1) was sufficient, and any further evidence by a witness or written statement (*kāgaḥ, muculkā*) was only necessary in a few cases.³⁹ However, there was a significant difference regarding *bhor* in sexual intercourse; a woman who committed sexual intercourse with somebody whom she took to be her husband can not claim *bhor*—even if she was intoxicated (MA 1854/89/18, MA 1888/5.32/5). But if a man did the same, he could get rehabilitation. A good example of where equality lacked.

36 See, for example, BaudhDhS 2.1.1.3, ĀpDhS 1.9.24.15, Manu XI.123; Gampert 1939: 233, Day 1982: 211f.

37 Day 1982: 221.

38 MA 1854/89/19-21, 51, 56, 58-64, 66, 72; MA 1888/5.32/5,14-15.

39 See, for example, MA 1854/89/20, 66.

The Dharmādhikārin was mostly responsible for offences committed unknowingly.⁴⁰ For offences committed with intent, rehabilitation could only be granted by the king or the Prime Minister. And if rehabilitation was not possible according to the MA 1854 (*ainmā patiyā nadinu bhanyā kālāi*), a royal decree (*lālmohor*) was to be issued (MA 1854/89/4).⁴¹ Moreover, if somebody accidentally killed or injured someone else (or a cow) because of a technical defect in a weapon or for other reasons, he could receive rehabilitation and the case would not be considered a crime (MA 1854/65/5).

The distinction between actions undertaken with and without intent had already been applied in classical law sources—subject of a long debate on whether the results of intentionally (*kāmata* or *jñāna*) or unintentionally (*akāmata*, *ajñāna*) committed sins could be destroyed by penances or not.⁴²

*akāmataḥ kṛte pāpe prāyaścittam vidur budhāḥ /
kāmakāraḥ kṛte 'pyāhur eke śrūtinidarśanāt //
akāmataḥ kṛtaṁ pāpaṁ vedābhyāsenā śudhyati /
kāmas tu kṛtaṁ mohāt prāyaścittaiḥ prgvidhaiḥ //
prāyaścittiyatām prāpya daivat pūrvakṛtena vā /
na saṁsargaṁ vrajet sadbhiḥ prāyaścitte 'kṛte dvijāḥ //*

“Wise men know that a restoration is for an evil committed unintentionally; some say, on the evidence of the revealed canon, that it is also for one done intentionally. An evil committed unintentionally is cleansed by reciting the Veda; but one committed intentionally, in confusion, (is cleansed) by different sorts of particular restorations. A twice-born man who has incurred the need for restoration, through fate or by an act committed in a former (life), should not associate with good people until restoration has been completed.” (Manu 11.45-47⁴³)

The logic behind this was that only intentional acts were ritually meaningful. The distinction between intentionally and unintentionally committed offences had to do with the nature of ritual actions. All ritually valid acts must be performed with a *saṁkalpa*,⁴⁴ which must be formulated (a) prior to the ritual, (b) consciously, and (c) verbally; it must (d) also mention the purpose of the ritual and should be (e) accompanied by certain ritual

40 Höfer's (1979:197) assumption that he may act *only* in such cases is—despite MA 1854/89/4—misleading, since the Dharmādhikārin must also grant *patiyā* in cases of posthumous rehabilitation (see MA 1854/89/12).

41 Cf. MA 1854/92/6.

42 Kane 1973/I: 63ff., 75, 80, Rocher 1983, Day 1982: 215.

43 See, for instance, Manu 11.45-46, Yāj 3.226, and GautDhS 19.3ff.

44 See Michaels 2005.

gestures. Thus, a decision to take a religious vow had not only to be well articulated and formulated prior to the performance of the ritual; it also had to be consciously declared—usually in a public and outspoken form. This is what C. Humphrey and J. Laidlaw⁴⁵ called the ritual commitment. Indeed, only if such a formal decision has been made and expressed in words are the ritual acts religiously valid. Unintentional actions, however, are therefore ritually less valued and thus easier to exempt from penitential punishments.

3.5 Report (*jāher*)

The final requirement for issuing a writ of rehabilitation was a report (*jāher*) that had to be given to the Dharmādhikārin regarding any violation of the norms for sexual and commensal contacts (MA 1888/5.32/11). This concerned spouses as well as children, even if they did not wash themselves after defecation, which thus polluted others.⁴⁶ Such a report was explicitly demanded in some cases (MA 1854/89/20, 29); in other cases, the punishments for not having reported were mentioned (MA 1888/5.32/8). Heavy punishments were sentenced if any person other than the Dharmādhikārin issued a writ of rehabilitation (MA 1854/89/3), i.e. if somebody forged such a report and or document (MA 1854/89/6, 51, 57, 60-61; MA 1888/5.32/27).

We may conclude from the cases discussed above that the main duty of the Dharmādhikārin was to reduce the strict rules of a hierarchical caste society by giving rehabilitation and taking certain measures (see ch. 4) so that most persons who were accidentally or unknowingly polluted by sexual or commensal contacts with an impure person, including spouses and other family members, could get a partial or full readmission to their caste. It would be a mistake, however, to consider the Dharmādhikārin as the sole authority able to reduce guilt or punish offenders through penances or penalties. On the one hand, certain severe penalties such as life imprisonment or capital punishment could only be sentenced by the king or the Prime Minister, while on the other hand, certain measures such as degradation were explicitly not regarded as punishments. The king (or the Prime Minister) had the duty to control the order of the state which the caste

⁴⁵ Humphrey/Laidlaw 1994: 88ff.

⁴⁶ MA 1854/92/6, Höfer 1979: 197.

system and its hierarchy was part of. Both the king and the Dharmādhikārin worked together as upholders of that order.

4. Penance and Penalty: The Legal Remedies of the Dharmādhikārin

As has been convincingly demonstrated by A. Höfer,¹ the MA 1854 applied forms of punishment for impurity which entailed social and/or penal measures. Degradation or exclusion from the commensal community was social consequences, whereas imprisonment or fines were penal consequences. Only the latter were regarded as *khat*, i.e. a punishment of the state. Occasionally, however, the phrase *khat lagdaina*, “no punishment is applied”, was used in order to make clear that certain behaviour is not regarded as punishable, though it might have implied social consequences as well as some form of purification, absolution or expiation. For these cases, the Dharmādhikārin could apply the following legal remedies: rehabilitation (*patiyā*, *prāyaścīt*); fees (*dastur*, *godāna*), payable mostly to the Dharmādhikārin; fines (*daṇḍa*), payable to the government; pardons (*taksīr māph*); or certificates of rehabilitation (*purjī*).

So far I have used the term “rehabilitation” (*patiyā*, *prāyaścīt*) as a blanket term denoting absolution, penance, expiation or purification as well as penalty. It is indeed difficult to draw any clear terminological borderline between *patiyā* and *prāyaścīt*. Quite often they seem to be used as synonyms.² Thus, in the MA 1854/89/41 exactly the same punishment was prescribed as in the MA 1854/89/40, although in paragraph 40 the term *patiyā* was used, whereas in paragraph 41 *prāyaścīt* was preferred. Moreover, some important distinctions have to be made:

4.1 Readmission to caste (*patiyā*)

Not only in the chapter on the Dharmādhikārin but throughout the MA 1854, *patiyā* is the most frequently used term for rehabilitation, i.e. the readmission to one’s caste and commensal group. The etymology of the term is debated. Mahesh Candra Regmi derives it from the Arabic *fatwā*: “The term is obviously a corrupt form of the arabic *fatwa*, meaning ‘a religious

1 Höfer 1979: 53-88, 185ff.

2 See the Kānunī Śabdakoṣa (Sipha 1981: s.v.), where *patiyā* is glossed with *prāyaścīt*.

injunction, or an order issued in writing by a person versed in canon-law”³ Others prefer a derivation from the Skt. verbal root *pat*, “to fall”, which also denotes the loss of one’s caste status or degradation (*patita*). *Patiyā* could be derived from a (corrupt?) gerundive meaning “(the measures against) a threatened degradation”. Given this religious context, it seems more plausible to see a connection between *pat* and *patiyā* than between *patiyā* and an Arabic term.

In most cases, *patiyā* is a penalty through which one keeps⁴ or regains one’s caste status. It implies a form of punishment or penalty (imprisonment, confiscation, branding etc.), or a fine (*daṇḍa*) to be paid to the government or a certificate (*purjī*) to be issued by the Dharmādhikārin on behalf of the government. In some cases, a fee (*dastur*, *godāna*) can be charged additionally by the Dharmādhikārin (MA 1854/89/38, 40).

The MA 1854 made clear that a certificate of rehabilitation could not be issued without prior punishment and its full service (MA 1854/89/5, MA 1888/5.32/1). As *patiyā* can only be given to somebody who had an illegitimate sexual or commensal contact with degraded or impure persons, the punishment had to be given and served first, and only afterwards could the guilty person be rehabilitated. However, there was one important exception: persons who unknowingly took food from an impure and degraded person could get *patiyā* without punishment or fine (MA 1854/89/56-59, 63, 64, 66).

Patiyā could be given partially or fully, i.e. for water or for rice and water, which meant a full readmission to one’s commensal group. Giving *patiyā* for water meant that the offender was admitted to a Water-acceptable, Non-enslavable Caste, but not to his or her previous caste.⁵ *Patiyā* for water was sentenced in the following cases: for illegally shaving the top knot or the *śikhā* (MA 1854/89/16), for pregnancy after illicit sex (MA 1854/89/23, 59), for degradation after juridical error (MA 1854/89/24), for degraded children (MA 1854/89/31), for abusing the law (MA 1854/89/51) or for a pending legal case (MA 1854/89/52).

Special forms and terms of *patiyā* were a) *bhor-ko patiyā*, i.e. granting rehabilitation to someone who was ignorantly or unknowingly polluted; b) *kryāśuddha-ko patiyā*, “readmission to one’s caste on the grounds of the

3 M.C. Regmi 1979: 137 quoting Muhammad Mustafa Khan’s *Urdu-Hindi Shabdakosha* (1959).

4 *jāt jāmdaina*: see, for example, MA 1854/60/5 or 6.

5 See Höfer 1979: 43ff., especially Fig. 1-2, for a detailed analysis of the caste system of the MA 1854.

purifying death rites”, a kind of posthumous rehabilitation (see above ch. 3.1.1); c) *prāyaścīt-ko patiyā* (MA 1854/89/10), rehabilitation for somebody sentenced with death penalty;⁶ and d) *aśuddha-ko patiyā* (MA 1854/89/72, MA 1888/5.32/14), which implied a certificate of the purification of the body (a).⁷

4.2 Expiation (*prāyaścīt*)

In classical Dharmaśāstra sources, e.g. *Manusmṛti*, *prāyaścitta* was often used as a synonym for *niṣkṛti*, (*ni*)*śuddhi* or *kṛcchra*, and sometimes even *vrata*. The term, therefore, covers the expiative means of purification such as sacrifices and prayers (Manu XI.74, 119 or 256), ritual washing (Manu XI.82, 174 or 202), religious gifts (Manu XI.76 or 133ff.) or the use of cow products and also ascetic practices, especially fasting, pilgrimage and celibacy (Manu XI.41, 92 and 165).

In the MA 1854, however, *prāyaścīt(ā)*⁸ focussed on the expiative aspects of rehabilitation, while *patiyā* was mostly used to denote the readmission to one's commensal group after punishment and/or paying a fine. In short (and in accordance with the Dharmaśāstra), *patiyā* (as a punishment) concerned itself more with social purification, *prāyaścīt* (as expiation) concerned itself more with religious purification. The latter aimed to remove the evil of sins, either in this life or in the after-life, while the former sought to prevent others from the evil consequences of evil deeds. However, caste-relevant offences as well as other criminal acts were “employed indistinctly in the sense of ‘punishable act’”, i.e. *khat*.⁹

In the MA 1854, *prāyaścīt* was often mentioned in connection with a fee which was to be paid to the Dharmādhikārin (see Tab. 1) and which provided for most of his income, whereas the fines—as part of the punishment—were taken by the government (see Tab. 2). The fees, especially the *godāna* (“the gift of a cow”), were regarded as expiative measures. They were considered

6 In this case, the delinquent was punished and purified at the same time: see supra ch. 3.2.3. It is clear that he could get the fruits of the expiation after his death, i.e. in his “next life”. For a detailed discussion on expiation through the death penalty, see Wezler 1995.

7 The paragraphs in which this term is used were later added to the original MA 1854 and are incomprehensible to me. *Aśuddha-ko patiyā* apparently concerns a pending case, but I cannot see the difference from any other case in which *patiyā* for rice and/or water was granted, i.e. why a new term had to be coined.

8 On the etymology of the term, see Gampert 1939: 23-30, Kane 1973/IV: 57ff, Day 1982: 213.

9 Höfer 1979: 185.

as gifts to the Brahmins who in exchange bestowed merit (*punya*) on the donors. However, penalties could also have an expiative effect, and *patiyā* in the sense of readmission to one's commensal community was then to be regarded as the formal confirmation that the guilt of the offender was redeemed. This held especially true where the punishment was a fine (which must, in cases of insolvency, be substituted by imprisonment at the rate of Rs 5 as the equivalent of one month of jail).¹⁰ From this it follows that rehabilitation was only possible after the full punishment was given and executed, which implies that in the case of capital punishment, an expiation could only be posthumous, or after the guilty person had shown his readiness to die in war (MA 1854/89/25).¹¹

The question remains as to whether *patiyā* was also a form of expiation, and what it then adds to *prāyaścīt*. As it seems, *prāyaścīt* was a kind of purification for cases which did not imply punishment. This was clearly expressed in the MA 1888/5.32/31:

yas mahalkā ainmā sajāyadinu bhanyā nalekhī prāyaścitta dinu bhanyā mātra lekhiyākomā sajāya nagarnu.

"If in this section in the *Ain* it is written to give only *prāyaścitta* but not punishment; (in such cases) do not give punishment."

Patiyā thus included *prāyaścīt*, but the latter could also be prescribed as a form of purification in cases where *patiyā* was neither necessary because of a low caste status, ignorance (*bhor*) or being insane, etc. (MA 1854/89/7, 29, 30, MA 1854/157/3), nor possible (MA 1854/89/9, MA 1888/5.32/25).

The *prāyaścīt* ceremony, which had to be performed according to *rīti* and *smṛti* (MA 1854/89/71), was in many cases performed at the Paśupatinātha temple in Deopatan,¹² a favoured place of pilgrimage (*tīrtha*), but also in Benares.¹³ Going on pilgrimages has been accepted, in the Dharmaśāstra too, as taking religious vows (*vrata*)¹⁴ with expiative effects.¹⁵

The MA 1854 reflects the old ambivalence regarding penances in the Dharmaśāstra, which have been declared (therein) as both expiative and fruitless. The problem was clearly articulated in the *Gautamadharmasūtra* (19.4-6):¹⁶

10 Cf. MA 1854/89/16 and 37

11 See above, ch. 3.2.4-5, and Höfer 1979: 188.

12 See Tāṇḍan V.S. 2043: No. 4-5, Michaels 1994:147.

13 MA 1854/87/29 and 93/1; Höfer 1979:186.

14 Cf. Day 1982: 214.

15 Viṣṇu 85.

16 Cf. VasDhS 22.1-5, BaudhDhS 3.10.2-5.

tatra prāyaścittam kuryān na kuryād iti mīmāṃsante. na kuryād ity āhuḥ. na hi kṣīyata iti. kuryād ity aparam.

“They [the men] are in doubt as to whether he shall perform a penance for (an impure or sinful action) or not. (Some) declare that he shall not (do it) because the deed does not perish (in this life). The absolute best (opinion, however, is) that he should perform (a penance).”

However, the expiative remedies of the MA 1854 were limited in comparison with those of the Dharmasāstra. Nowhere have common expiations, such as the *kṛcchra* rite with all its variations (*ati-*, *tapta-*, *parāka-*),¹⁷ the recitation of the Veda, sacrifices or special gifts (*dāna*) to Brahmins been mentioned. The MA 1854 is clearly not a Dharmasāstra text. It was decreed by a ruler of Nepal and therefore it does not mention all the punishable offences. Thus, if a Brahmin forgot his Veda, it was regarded as a severe sin (*pātaka*), but it did not concern the king and was not mentioned in the MA.

Prāyaścīt in the MA 1854 was certainly supplementary and cumulative to *patiyā*, but in certain cases it was also substitutional or alternative, and this again is in accordance with Dharmasāstra rules since both penance and penalty purify sinful men¹⁸. But the basic distinction lay in the voluntary character of *prāyaścīt* and the compulsory character of *patiyā*.¹⁹ *Prāyaścīt* was necessary to avoid one's fall into hell, but also to remove the obstacles arising from the prohibited intercourse with other caste members.

4.3 Certificate of rehabilitation or absolution (*purjī*)

Part of the rehabilitation was a certificate (*purjī*) by which the former caste status was affirmed or reconfirmed.²⁰ The Dharmasāstra also prescribed that all certificates of rehabilitation be issued in a written form.²¹ The legal principle stating that decisions had to be drawn up in writing concerned all cases and contributed to the security of juridical matters. Consequently, duplication of the seal of the Dharmādhikārin was heavily punished with eighteen months to three years imprisonment (MA 1854/34/14 and 89/8).²²

17 See Manu 11.212; Gampert 1939: ch. V.

18 The *locus classicus* is Manu 8.138.

19 See Day 1982: 221.

20 MA 1854/89/3, 20, 29, MA 1888/5.32/8, 11.

21 Jolly 1896: 119.

22 See also MA 1854/34/14 and 17.

Even attempts could be punished with the confiscation of the (share of) ancestral property and three years imprisonment (MA 1865/34/17). The certificates of rehabilitation (*patiyāko purjī*) were mostly issued by the court or district offices (*adālat, thāna, amāl*), and then they were signed or reconfirmed by the Dharmādhikārin (MA 1854/89/71-72; MA 1888/5.32/14, 22).²³ Only in rare circumstances could the Dharmādhikārin issue the certificate (MA 1854/89/14, 72).

The Dharmaśāstra also decreed that certificates of rehabilitation had to be issued in written form.²⁴ A sample of such a certificate of rehabilitation (prior to the MA 1854) dated V. S. 1890 Phālguna śudī 3 roj 5 (1834), was edited by Dh. Vajrācārya and T. B. Śreṣṭha:

"By order by the venerable king of Gorkhā in congruence with the *smṛti(s)*, perform the following *prāyaścitta* which is a remedy to wipe away (your) sin: Having shaved the head, having smeared (the body) with mud (and) ashes (and having taken) *pañcagavya* (five holy products of the cow),²⁵ take a bath on the first day. On the same day eat 15 handfuls of *haviṣya*;²⁶ eat in the night of the second day twelve handfuls. On the third day eat without asking; if anybody offers (you) something to eat, eat 24 handfuls. On the fourth day, fast. On the fifth day eat *pañcagavya* (and) give *sīdhā* (1 leaf plate of raw vegetables, lentils, etc.) as well as *dakṣiṇā* (sacrificial fee) to the Brahmins.

(These measures concern:) the Newar female slave who had illegitimate sexual contact with Kusles (pl.!) (and) men (pl.!) who were contaminated (by her), the Kīrāti (m.), who had illegitimate sexual contact with a Kāminī (blacksmith woman), the women (of the Kīrāti) who were contaminated through (sexual contact with) him, (those who had illegitimate) contact with the Kāminī (f.). Four houses including the house of the Dhāmī of Nuvakoṭ will be purified (by these *prāyaścitta* measures)."²⁷

The first part of the certificate was a more or less formulaic as can be seen from another certificate of rehabilitation (see Fig. 1), dated V.S. 1957, which also bears the seal of the Dharmādhikārin:

²³ See also J.C. Regmi, V. S. 2036:207.

²⁴ Cf. Jolly 1896: 119.

²⁵ Probably a kind of expiation similar to the *sāmtapana* diet, in which one eats on one day only a purifying mixture of cow urin, dung, milk, curd and ghee, and then fasts on the second day. See, for example, Yājñ 3.315f.

²⁶ Some kind of vegetarian food, e.g. rice with milk and ghee, also used for the *homa* sacrifice.

²⁷ Vajrācārya/Śreṣṭha V.S. 2032: 93.

Seal of the Dharmādhikārin:

1. Śrīdharmādhikāra
2. Śrīkuvalayarā-
3. ja Paṇḍitajū

1. Śrī
2. Śrīmadgorakṣabhūpendrapreritaṃ smṛtisammataṃ //
3. duritacchedanāpāya prāyaścittaṃ samācara //
4. prathama dīna muṇḍana gri māto bhasma paṃcagavya lepana gari
snāna garnu tasa dīna dīnnaimā
5. haviṣe grāsa 14 ṣānu dośrā dīna rātrīmā grāsa 15 ṣānu teśrā dīna
namāgī kasaile ṣā bhani
6. dīyā grāsa 24 ṣānu cauthā dīna nirāhāra garnu pācau dīnamā
paṃcagavya ṣāī brāhmaṇalā-
7. ī sīdhā dakṣaṇā dīrna (dīnu) kuslenī dhovī sarkenī damenī ī jātsaṃga
ka-
8. raṇī cukekā logne ra kasāhī musalamān kāmī sārki ī jātsaṃga
9. karaṇī cukekā svāsnī smetharuko sāmāne pānī saṃsarga bhayā vāpat
10. Naradeva Paṃtako ghara suddha īti samvat 1957 sāla mīti bhādra sudī
9 roja 2 śubham.

“(Seal:) Śrī (venerable) dharmādhikāra Śrī Kuvalayarāja Paṇḍita-jyū. Year 1951 B.S.

By order of the venerable king of Gorkhā in congruence with the *smṛti*(s). Perform the following *prāyaścitta* was a remedy to wipe away (your) sin: Having shaved the head, having smeared (the body) with mud (and) ashes (and having taken) *pañcagavya* (five holy products of the cow) take a bath on the first day. On the same day eat 15 handfuls of *haviṣya*; eat in the night of the second day twelve handfuls. On the third day eat without asking; if anybody offers (you) something to eat, eat 24 handfuls. On the fourth day fast. On the fifth day eat *pañcagavya* (and) give *sīdhā* (1 leaf plate of raw vegetables, lentils, etc.) as well as *dakṣiṇā* (sacrificial fee) to the Brahmins.

(By doing this) the house of Naradeva Paṃta shall be pure from the simple (type of) contamination (caused by contact with) a man who had committed the guilt of having had sexual contact with women from castes such as Kulu (makers of musical instruments, like drums), Dhobi (washer-men), Sārki (shoe makers), Damāī (musicians) and also women who had committed the guilt of having had sexual contact with men from castes like Kasāī (butcher), Musalman (Muslims), Kāmī and Sārki.

(Vikrama) Saṃvat, the 9th day of the bright half of the lunar month of Bhādra, Monday. Hail!”

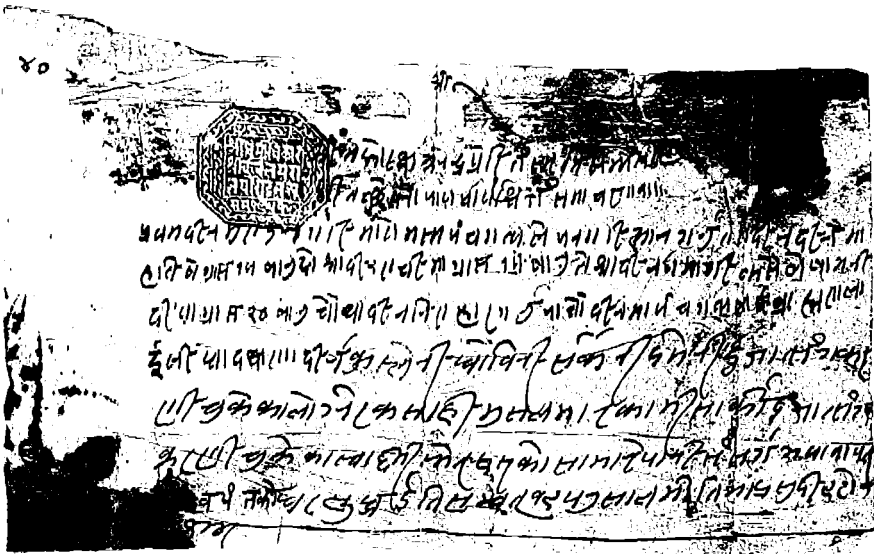


Fig. 1: Certificate of rehabilitation (*purji*), dated V.S. 1957 (1900 A.D.), (Private collection)

The following is the third sample of a certificate of rehabilitation, which is in the private possession of Aishvaryadhar Sharma (Lalitpur), dated V.S. 1988, and which also has to do with sexual contacts with lower castes. It shows that sometimes the writs were prepared so that only the name of the culprit(s) had to be inserted:

1. *Śrīmadgorakṣabhūpendrapreritaṃ smṛtisammatam // (dastura /6)*
2. *duritacchedanāpāyaṃ prāyaścittaṃ samācara //*
3. *Kamainī saṃga karaṇimā cukekā logne mānisa saṃga sāmānya pānī saṃsarga*
4. *bhae bāpat.....*
5. *ko ghara śuddha iti saṃvat 1988 sāla āśvīṃna 8 gate roja 5 śubham.*

“By order of by the venerable king of Gorkhā in congruence with the *smṛtis*. Fee 6 (*paisā*).

Perform the following *prāyaścitta*, which is a remedy to wipe away (your) sin: [Collect] a fee of 6 *paisā* for the purification of the house of... for the simple contamination through water (i.e. having taken water from the hand) by a man who had committed the guilt of having sexual contact with a woman from the iron-smith caste (*kumainī*).

(Vikrama) Saṃvat, in the year 1988, *Āśvina* gate 8, Thursday. Hail!”

4.5 Fees and fines

Along with a certificate of rehabilitation, certain fees and fines were charged by the Dharmādhikārin which constituted a considerable source of income for the state budget, as well as the Paśupatinātha temple and the Dharmādhikārins themselves. According to the *Divya Upadeśa*, the income through fees was called *dharmadāna* (“gift for the *dharma*”) and was used by the king²⁸ for religious works, such as donations to temples, the building of rest houses or offerings to ascetics, but the charges for rehabilitation (*patiyā*) were considered as salary (*khaṅgī*) of the Dharmādhikārin.²⁹ It may therefore be true what Kirkpatrick noted:

“The Dhurmadhun [*dharmadāna*], or fees of this department [i.e. the office of the Dharmādhikārin], are said to be very great, and I have reason to think that it is principally on this account that the farming governors usually stipulate for the privileges of commissioning their own officers of justice.”³⁰

According to Hamilton,³¹ the fees given as expiation (*prāyaścitta*) for the neglect of rituals in the pre-Rāṇa time were shared equally between eight persons: the king, a tax collector, the Dharmādhikārin, and five Brahmin clans (Pāṇḍe, Panta, Āryals, Khanal and “Agnidaṇḍa”).³² It is unlikely to find a budget for such penalties issued by the Dharmādhikārin. However, given the fact that the offences mostly concerned everyday behaviour (eating, taking water, sexual intercourse, etc.), one may estimate that it amounted to a considerable sum, as was already assumed by W. Kirkpatrick:

“Most offences, according to the Dhurma Shaster [*dharmasāstra*] (which is the foundation of the civil code of Nepaul), being punishable by amercement, and the catalogue of crimes of this description being extremely long, it is easy to conceive that such penalties constitute a considerable source of emolument.”³³

28 See Wright’s chronicle (reprint), p. 162: The (Buddhist) Merchants from Patan trading in Tibet had to be purified after their return by the abbot (*naike*) of five monasteries (*viḥāra*) in order to be readmitted to their caste, “but the fees should go to the Raja”.

29 J.C. Regmi V.S. 2036: 207.

30 Kirkpatrick 1811: 201.

31 Hamilton 1971: 102, cf. Vaidya/Manandhar 1985: 179.

32 *Agnidaṇḍa*, however, is not a Brahmin surname but a one-seventh share of the revenue from the *prāyaścitta* fine: see M.R. Pant 2002. From this it follows that Hamilton’s statement that the fine had to be shared by eight persons or institutions must be wrong.

33 Kirkpatrick 1811: 201.

Moreover, in the Gorkhā and Rāṇā governments, it was the right of the Dharmādhikārīn to collect a certain tax from each household known as *dān*.³⁴ In the pre-Rāṇā period it was at the rate of one *anna* (4 *paisā*) per annum from each household. This tax is called *cāndrāyaṇa* because it could also be levied as a substitute for a so-called *cāndrāyaṇa vrata* ("vow of the course of the moon"), by which people who had to purify themselves ate for one month increasing and decreasing amounts of food.³⁵ These expiatory rites could be "performed by the whole city or kingdom in atonement for the commission of some heinous sin or uncleanness, the consequences of which have affected a considerable body of citizens."³⁶ Since (temple) priests (*pūjārī*) were involved in the *cāndrāyaṇa* rite, quarrels over the amount of the fees occasionally arose between the Dharmādhikārīns and the priests.³⁷ According to the *Bhāsavaṃśāvali*, king Siddhinarasiṃha Malla performed this vow by increasing the food from one handful (*muṭhī*) of rice to one *pāthi* (80 handfuls)³⁸ and vice versa.³⁹

The most common fee payable to the Dharmādhikārīn was "the gift of a cow" (*godāna*, *gaudāna*), which was rarely a real cow but rather a small cow in gold or silver or mostly a cash payment. Nowadays, the five Paisā coins serve this purpose since they depict a cow on one side. While in Benares a real cow is at least needed for the *godāna* ritual, this is not mentioned in the MA 1854.

A further source of income for the Dharmādhikārīn was the fine which was levied for killing a cow.⁴⁰ According to Dineś Rāj Pant, one-third of that fine, called *brahmadaṇḍa*, was given to the Dharmādhikārīn.⁴¹ However, in Maharashtra, from where the Marahāṭṭa Brahmins in the Gorkhā kingdom still claim to come from,⁴² any fee for expiation was called *brahmadaṇḍa*.⁴³

All these fees and fines were given to the Dharmādhikārīn as compensation for a crime or loss of purity. The culprit had to pay a price for regain-

34 Kumar 1967: 92; Rana 1995: 129.

35 Cf. Viṣṇu 47; Kane 1973/IV: 134ff..

36 Hodgson 1880/I: 219.

37 See the document (*patra*) of the Minister (*cautarīyā*) Bhīma Vikrama Śāha dated V.S. Bhādra badi 1903, published in *Itihāsa Prakāśa* II: 267.

38 8 *māna* = 1 *pāthi*; 1 *māna* = 10 *muṭhī*.

39 BhV II: 63.

40 Cf. Michaels 1997a.

41 D.R. Panta V.S. 2043: 514-5.

42 See above, 1. Introduction.

43 See Höfer 1979: 200 (quoting Gune); cf. also M.R. Pant 2002: 155 (who identifies *brahmadaṇḍa* with *agnidaṇḍa*: see above p.) and Michaels 2001: 73.

ing purity, but the price had its fixed rates (see Tab. 1-2). These fees were to be paid directly to the Dharmādhikārin. The amounts were fixed according to the type of land owned by the culprit, *aval* being the best or highest.⁴⁴

Tab. 1: Fees (*dastur*, *godāna*) for *patiyā* in the MA 1854, ch. 89⁴⁵

<i>Case</i>	§	<i>Fee</i>	<i>Prices in rupees</i> ⁴⁶
Illegitimate intercourse and accepting <i>bhātpāni</i>	2	<i>dastur</i>	<i>aval</i> 2, <i>doyam</i> 1.50, <i>sim</i> 1, <i>cahār</i> 0.50
Insanity	7	<i>godāna</i>	<i>aval</i> 2, <i>doyam</i> 1.50, <i>sim</i> 1, <i>cahār</i> 0.50
Attempted suicide	8	<i>godāna</i>	0.25-2
Suicide	9	<i>godāna</i>	<i>aval</i> 2, <i>doyam</i> 1.50, <i>sim</i> 1, <i>cahār</i> 0.50
Relatives of a person punished with capital punishment	10	[<i>godāna</i>]	0.25-2
Performing death rituals without <i>kṛyāko patiyā</i>	12	[<i>godāna</i>]	5 Rs fine (<i>daṇḍa</i>) each and additionally <i>aval</i> 2, <i>doyam</i> 1, <i>sim</i> 0.5, 1/50, <i>cahār</i> 0.25
Unknowingly eating <i>bhāt</i> from the hands of a murderer	13	<i>godāna</i>	<i>aval</i> 3.50, <i>doyam</i> 1.75, <i>sim</i> 13 <i>ānā</i> , <i>cahār</i> 7 <i>ānā</i>
Giving <i>patiyā</i> for water	17	<i>godāna</i>	<i>aval</i> 10, <i>doyam</i> 8, <i>sim</i> 5,

44 See MA 1854/40/28 and M.C. Regmi 1976: 132.

45 For further cases of fees (mostly *godāna*) payable to the Dharmādhikārin, see MA 1854/60/4-6, 60/15, 61/2-5, 61/5, 65/5, 87/5, 87/29, 88/5, 92/6, 93/1, 94/19, 97/17, 106/6, 106/14, 143/3, 145/35.

46 In the MA 1854, two systems of calculations and notations were used: a) a decimal system in which 1 Rupee is equivalent to 100 Paisā; b) a system in which 1 *rūpaiyāṇi* is equivalent to 16 *ānā*. In this table, I have calculated the fee in the decimal system wherever it was possible. Otherwise I have mentioned the *ānā*.

<i>Case</i>	§	<i>Fee</i>	<i>Prices in rupees</i> ⁴⁶
to a <i>pātaki</i>			<i>cahār</i> 2
Unjustified degradation through a minister or nobleman (<i>bhārdār</i>)	24	<i>godāna</i>	<i>aval</i> 25, <i>doyam</i> 12.50, <i>sim</i> 6, <i>cahār</i> 3
Drinking impure water used for washing:	40	<i>godāna</i>	0.50 + 2 Rs <i>daṇḍa</i> (for the father?)
the hands during a marriage	41	<i>godāna</i>	1 + 5 Rs <i>daṇḍa</i> (for the father)
the feet			1 (for friends and other relatives)
Accepting <i>ṭikā</i> from a Water-non-acceptable Caste member	43	<i>godāna</i>	0.50 + 5 Rs <i>daṇḍa</i>
Accepting water from somebody who travelled to a foreign country and did not get <i>patiyā</i> afterwards	71	<i>dastur</i>	0.25 for <i>amāli</i> and Dharmādhikārin

Tab. 2: Fines (*daṇḍa*) in the MA 1854, ch. 89⁴⁷

<i>Case</i>	§	<i>Fine in rupees</i>
Creating religious conflicts by complaining about other customs	1	100
Granting unauthorised <i>patiyā</i> or refusing it	4	500 for the Dharmādhikārin 50 for the <i>kāriṇḍā</i> (staff of the Dharmādhikārin)

47 These fines were normally paid to the court. Cf. also MA 1888/5.32/16-24, 30, 32.

Case	§	Fine in rupees
Granting <i>patiyā</i> without punishing a culprit who was found guilty of a crime that implied degradation	5	40 for <i>hākim</i>
Hiding or issuing false documents	6	500 for <i>hākim</i> , <i>dvāryā</i>
If food was additionally taken from the culprit		1000
False accusations	15	10 (no <i>prāyaścīt</i> is required)
Performing rites for Water-non-acceptable Castes	16	5 for <i>brāhmaṇa</i> (priest) and <i>yajamāna</i>
For giving a <i>ṭikā</i> by a <i>pātaki</i> to a <i>brāhmaṇa</i>	17	2.50 for <i>brāhmaṇa</i> 5 for <i>pātaki</i> (<i>yajamāna</i>)
Hiding an adulterer from a Water-non-acceptable, but "touchable" caste and allowing the husband to feed his brothers	22	20 for the wife
As § 22 but Untouchable Castes	23	25 for the wife
Eating rice and water in cases of emergency and reporting it	29	20 for the food giver 40 for the food taker (but no <i>patiyā</i>)
Granting unauthorised <i>patiyā</i> to children of degraded parents	30	20 for <i>mukhtiyār</i> 5 for (other) members of the court
Converting to a religion other than Buddhism	35	50

Case	§	Fine in rupees
A householder (<i>grhastha</i>) taking <i>saṃnyāsa dīkṣā</i>	36	50
Illegitimately wearing the holy cord	37	20-40
Accepting <i>ṭikā</i> , <i>dakṣiṇā</i> or <i>dāna</i> from Water-non-acceptable Castes and Untouchables Castes	42	20 for <i>brāhmaṇas</i>
Not accepting water from the Mecyā caste	49	5
Granting <i>patiyā</i> to a female or Brahmin murderer	51	30 if rice and water was not accepted 60 if only water was accepted 50 + degradation if rice was accepted (lower rates for officials other than the <i>hākim</i>)
Taking rice and water in a pending case	52	30 in case of water, 20 in case of water
Taking rice and water from a degraded person and shaving because of a false certificate of rehabilitation	53	20 in case of water, 10 in case of water
Issuing a false document (<i>patiyā</i> for water) dto. and allowing others to drink water	55	500 for <i>hākim</i> 500 + degradation

Case	§	Fine in rupees
Issuing a wrong certificate of rehabilitation in severe cases (degradation, life imprisonment, etc.)	56	500 if rice and water is taken by the <i>hākim</i>
Not disclosing illegitimate sexual contact of the husband and allowing other caste members to feed him	59	25 for the wife
Illegitimately granting <i>bhor-ko patiyā</i> to Water-acceptable Castes (without taking food from the culprit)	60	500 each for <i>hākim</i> and other officials
dto. reconfirming such a previous decision		250 each for <i>hākim</i> and other officials
signing the document		
orally approving the decision		100
writing the document		50
dto., but without anybody having taken food from the culprit		10
issuing the document		100
writing the document		50
presenting the case in the court		10
dto., but with bribery	61	similar fines as in § 60, and confiscation of bribe
Knowingly accepting food from a culprit who later gets <i>patiyā</i>	63	30 (in case of rice and water), 10 (in case of water)
Granting <i>patiyā</i> to a degraded person	64	500 for the officer (<i>hākim</i>) (+ degradation if rice and water was taken by him)
dto., but without anybody having taken rice and water from the degraded person		100 for <i>hākim</i> , 25 for other officials, 20 for other gentlemen present in the court

Case	§	Fine in rupees
Accepting <i>sidhā</i> and <i>dakṣiṇā</i> from the hand of a <i>dāmal</i>	65	20
Not temporarily separating an accused person in a pending case	67	100 in case of rice and water, 50 in case of water
Allowing someone to take rice and water from a temporarily separated culprit who could get <i>patiyā</i>	68	50 in case of rice and worshipping, 25 in case of water dto. for the separated person
The giving of the <i>gāyatrī mantra</i> by a Jaiṣī Brahmin	69	50 if given to Upādhyāya Brahmin 40 if given to Rājput 30 if given to Kṣatriya 20 if given to Upper Jaiṣī Caste (half rates if the boy is below 16)

In the pre-Rāṇā era, all fees had to be paid to the treasure house of the Paśupati temple (Paśupati Bhaṇḍāra Tahabil) which had to register them. This was decided in the year 1825 A.D. (V. S. 1881, *Phālguna vadi 10*) by Raṇa Bahādur Śāha after a quarrel between the Rājguru and the chief priest (*mūlbhaṭṭa*). This decree was confirmed by Rājendra Śāha (regn. 1816-1847).⁴⁸

We can conclude from the points discussed above that the main concern of the prescriptions in the chapter on the Dharmādhikārin (and in general) of the MA 1854 was to maintain the purity of the castes by preventing polluting sexual and commensal contacts. If such cases happened, a readmission to one's caste (called *patiyā*) could have been granted under defined circumstances. Among these are reckoned ignorance (*bhor*), the fulfilment of a punishment (considered as expiative), as well as specific acts of purification or absolution (*prāyaścīt*), such as the sprinkling of water, paying a fee to the Brahmin Dharmādhikārin or going on pilgrimage and issuing a certificate of rehabilitation (*purjī*).

48 Taṇḍan V.S. 2043: no. 4-5, Michaels 1994:147.

5. Legal and juridical security

The MA 1854 is a law book that tries to implement principles of juridical security. Traditionally, such security was not at all present in Nepal (and India).¹ Most criminal cases were decided in the village by elders who had some authority or power. Even the *śāstra* did not guarantee security, though it represented the need for juridical objectivity. Neither natural law nor the case law separated judicial and executive powers. Most of all it lacked prescribed forms of appealing, it did not recognize an independent defense and seldom differentiated substantially between attempt and completion of criminal deeds. Moreover, the *śāstra* was not obligatory or binding. The king could use it (through his Brahmin judges) or not. The MA 1854 reflects the segmental use of the *śāstra* to a great extent.

Jaṅga Bahādur Rāṇā wanted to establish a homogeneous legislation for the whole country (*muluk*). Even if significant deficiencies remained as to the autonomy of the law, the early *Ains* showed a complex picture of juridical problems. However, in general, the individual kept his weak position with regard to the power of the state, the corruption of the administration and the hierarchical or arbitrary interpretation of even the written law. Thus, the MA 1854 was certainly not published to inform the educated people about their rights. The MA 1854 remained more an instrument of oppression than of liberation for the majority of the people. The Nepālī proverb *ṭhulālāi cain sālālāi ain* ("For the big people, pleasure; for the small, the *Ain*") is telling in this regard. And yet the MA 1854 imposed control and responsibility on the juridical bodies in order to secure that the juridical procedures followed prescribed norms.

As we have seen from above, offenses that violated certain sexual and commensal caste norms necessitated a form of rehabilitation if the offender was not guilty, but the loss of purity was increased by guilt.² The restoration of lost purity was likewise not necessarily an act of purification of a sinner (*pātaki*). What counted more than personal guilt was social order. However, the lack of criminal intent (*bhor*) influences the punishment to a great extent.

1 Cf. Derrett 1979.

2 Cf. Höfer 1979:188.

Thus, problems of majority, responsibility or maturity, awareness of guilt, accomplice or joint-conspiracy, probation and instigation were juridically essential for the fair judgement of the accused. At the same time, problems with evidence, pending cases, false accusations, verdicts in absence of the accused, the perversion of justice, breaches of law, the forging of legal documents, the suppression of facts or corruption are essential for the fair judgement and responsibility of state and administration. I shall treat the first group as extenuating circumstances of a case, and the second as its procedural circumstances.

5.1 Extenuating circumstances

The primary extenuating circumstances, i.e. ignorance and majority, we have already dealt with (see above 3.4). According to the MA 1854, the accused was responsible for his criminal act only if he was older than twelve (in some cases sixteen) years old, not insane or intoxicated and not acting accidentally. Only when he knew what he was doing would he be made responsible. This meant that people "who cannot understand what is to be done or not, or what is to be eaten or not" (MA 1854/89/7; MA 1888/5.32/2) were regarded as imbeciles (*bāhulāyākā mānis*) and not responsible for their acts. The same held true for minors, i.e. children below twelve. In these cases punishment was the exception and rehabilitation was often given, although they might have had to bear the social consequences of degradation, irrespective of their own part in the criminal act, especially if the culprit was a woman.

Cases of accomplice were discussed in the MA 1854, but they did not necessarily reduce the guilt according to the more active or passive part in the crime. Thus, instigator and accomplice were treated as equal; apparently, both received the same punishment.³ An offender was often both the guilty person and victim. If, for instance, someone ate forbidden food offered by somebody from a lower caste, he was, on the one hand, the culprit because he intentionally but ignorantly accepted unacceptable food, but also the victim because the other let him—knowing his caste—eat the dish without informing him about his caste status. With regards to the factual findings, i.e. the commensal relationship, both were thus accomplices and both might have had to endure the social and ritual consequences; i.e. punishment and prosecution. But as for the guilt, the eater was regarded as the victim who

3 MA 1888/5.32/12.

could—depending on the gravity of the case—get rehabilitation on the grounds of ignorance (*bhor*); the offerer, however, was regarded as the guilty person and punished accordingly.⁴

Since the main concern of the MA 1854 was social order—irrespective of individual motive, extenuating circumstances other than acting in good faith or ignorance were rarely considered. It was, to my knowledge, only in the MA 1854/89/59 where an illicit sexual relationship was not reported due to the shame (*lāj*) of the adulterated person that such a behaviour was legally accepted to reduce the punishment. Given the high number of extremely intimate offences, it is surprising from a modern, Western point of view that a larger number of such motives to conceal an offence were not addressed in the MA 1854. However, the modern, Western perspective is not applicable to a law which was quite obsessed with regulating the private sphere of individuals in order to avoid transgressions in a fixed social hierarchy.

Consequently, probation was not well accepted as a remedy for reducing punishment. The focus was on the factual findings and their consequences, not on individual guilt. The only cases of probation were MA 1854/89/25-26, in which a culprit, who was sentenced with capital punishment or life imprisonment, was ready to die for the king in a war; if he showed extreme bravery, he could—under certain circumstances—get a partial upgrading. The MA 1854 even acknowledged a form of pardoning (*taksīr māph*) in such cases. In general, however, the MA 1854 did not pardon offences. It was a law without mercy and clemency.

5.2 Procedural circumstances

As mentioned above, in most cases, evidence is a matter of trust in words. If, for instance, a husband became impure and afterwards had intercourse with his wife without informing her about his impure state, and if he then ran away, his wife could get rehabilitation simply by giving a (written) statement to the Dharmādhikārin or the court. Only if it was later proven that this statement was wrong would she have been degraded (MA 1854/89/20). People were presumed untrustworthy, and as such had to prove their innocence themselves (or get purification) irrespective of any guilt. This held true, for instance, for travellers to foreign countries,⁵ where one could not imagine that such persons would travel independently and not accept foreign alcohol. Interestingly, English alcohol was considered more impure than

⁴ See MA 1854/90/10.

⁵ See above ch. 3.2.4.

Nepalese alcohol (MA 1854/87/31-32). For soldiers, however, the onus or burden of proof was the inverse (MA 1888/5.32/7). They did not necessarily lose their caste if they travelled to foreign countries (including India), assuming sufficient evidence was supplied.

In order to protect the truth of the word, false accusations (MA 1854/89/62, MA 1888/5.32/11, 29) could be punished with severe penalties. Any person who out of malice accused another without sufficient evidence had to be imprisoned for a period of eleven months and could not, as in most other cases, be released—even if he offered money in lieu of imprisonment (MA 1854/89/15).⁶

Generally, a case could not be decided unless sufficient evidence was provided. In pending cases, a defendant could be ordered to stay isolated (*haṭak*) from water and rice until the final judgement was made. In such cases, the separated person had to remain isolated until he or she was rehabilitated (through *patiyā*) and thus pure (*śuddha*) again (MA 1854/89/68, MA 1888/5.32/10, 33). People eating with a person in *haṭak* were fined (MA 1854/89/52, 67, MA 1888/5.32/10); but on the other hand, it was not allowed to leave the persons concerned “in confusion” (*alamalyār*: MA 1854/89/33) about their status.

The MA 1854 tried to safeguard the legal procedure in many regards. Not only did it protect the individual and his family or clan from false accusations, it also undertook a number of steps to prevent any perversion of justice or breach of the law by the administration or the courts. In many paragraphs, the officers (*hākim*, *bhārdār*, *dharmādhikārin*, etc.) were fined or otherwise punished if (1) they misused the law for evidently wrong judgements, especially if they did not grant rehabilitation in cases where a defendant should have received it (MA 1854/89/51), if (2) they reversed the decisions of a previous case (MA 1854/89/55), if (3) they gave rehabilitation to persons not entitled to such measures (MA 1854/89/57), if (4) they suppressed facts or forged documents (MA 1854/89/53, 60), or if (5) they accepted bribes (MA 1854/89/6 and 61). Moreover, the officer had to also keep a “safe” distance from the suspect to avoid illegitimate contact. Otherwise he, too, would be punished or degraded (MA 1854/89/60, 61).

6 See also Höfer 1979: Fig. 8, pp.77 and 187.

5.3 Abuse of law

If somebody was degraded through the unjustified mistreatment of an angry minister or a nobleman (*bhārdār*), he or she could get partial or full rehabilitation depending on the question of whether he or she was forced to eat unacceptable food (*abhakṣ*) or not.⁷ This paragraph is remarkable since it tried to implement some kind of legal security or precautions against the abuse of law. However, degradations implemented by the Prime Minister (MA 1888/5.32/28) were, as it seems, excepted from this rule.

5.4 Pending cases⁸

If somebody accepted cooked rice and/or water from a guilty person whose case had not yet been decided, he or she could get permanent or temporary rehabilitation. It would go too far to conclude from this paragraph any principle of force of law, but a first step in this direction can be seen. The MA 1888/5.32/14 is even clearer in this regard, as it says that rehabilitation without court decision was not possible.

The MA 1854 shows great concern for legal and juridical security by treating at length the extenuating circumstances, evaluating the guilt of the accused and the responsibility of the court officers: It was also concerned with controlling the juridical procedure by punishing severely any breach of the law or the perversion of justice. However, despite the legal and individual security which the MA 1854 implemented, high-handed and arbitrary acts of "justice" of the government certainly prevailed. This is evident not only from legal sources but also from historical documents of the Rāṇā period. Even the MA 1854 indicated it, when it made exceptions for the anger (*rīṣ*) of ministers or noblemen (MA 1854/89/24) or for the Prime Minister, allowing him to nullify decisions of the court (MA 1888/5.32/28).

7 MA 1854/89/24.

8 MA 1854/89/20, 52, 67-8; MA 1888/5.32/10,14,33.



6. Conclusion: The redemption of the evil

Evil deeds must be punished, and sin caused by evil deeds is redeemable by various forms of punishment or self-punishment. Sin or evil in Hinduism¹ is both a noxious substance that must be sacrificed or washed away and a kind of ethical misbehaviour which must be neutralized by good actions. In its first aspect, evil can also be caused by an inauspicious event (e.g. an eclipse), so personal guilt does not arise only from bad actions. However, any evil harms the religious and social order, and is thus part of the legal systems of Hindu South Asia. This complicates the relationship between penitential and penal modes of punishment, and contributes to a combination of ecclesiastical and civil law.² The MA 1854 was no exception to this rule. Thus, the function of the Dharmādhikārin—who was basically responsible for the penitential forms of punishment—was integrated into a predominantly penal system.

Seen from a penitential point of view, penance (*prāyaścitta*) is one of the most prominent and traditional means to reduce sin, but not the only one. Other traditional forms are: purification (*śodhana*, *pāvana*, *pavitra*, *śuddhi*), appeasement (*śānti*), retribution (*niṣkṛti*, *nirveśa*, *nirveṣa*) or indulgences (*niṣkraya*). Moreover, both penances and penalties have sin-reducing, expiatory effects. The king was endowed with religious or spiritual power too (see below), but a clear distinction between penal and penitential forms of punishment remained in Hindu Law, a distinction between penance and penalty, *daṇḍa* and *prāyaścit*.³ This held also true for the MA 1854: (corporal) punishments and imprisonments corresponded with ascetic, self-torturing behaviour (*vrata*s) like fasting, going on pilgrimage, etc., fines (i.e. cash payments to the state) with fees and gifts to Brahmins (including to the Dharmādhikārin), and social degradation with religious pollution.

1 For general comments on the evil in Hinduism, see Heras 1951-52, O'Flaherty 1976 and 1980, Herman 1976, Michaels 2003; cf. also Parkin 1985.

2 On the heavily debated (but difficult to be answered) question whether the penitential system preceded the penal system or *vice versa*, see Gambert 1939: 242-246 (with further references) and Day 1982: 218.

3 Foy 1895: 20ff., Gambert 1939: 242ff., Wezler 1995: 109 and 117.

Whether the penance or penalty was self-chosen or sentenced, the first steps towards the remission of sin were the confession of it and the voluntary submission to penances. This principle, which was also applied in the MA 1854, had already been clearly expressed in the *Manusmṛiti* (11.227-228):

*khyāpanenānutāpena tapasādhyāyanena ca /
pāpakṛtṁ mucyate pāpāt tathā dānena cāpadi //
yathā yathā naro 'dharmaṁ svayaṁ kṛtvānubhāṣate /
tathā tathā tvacevāhi stenādharmaṇa mucyate //*

"An evil-doer (*pāpakṛt*) is freed from his evil (*pāpa*) by a (formal) declaration (of the act), by remorse, by inner heat, by recitation (of the Veda), and, in exceptional cases, by giving gifts. The more a man declares on his own accord the transgression of the order (*adharma*) that he has done, the more he is freed from that transgression, like a snake from its skin."

However, "the basic distinction between penance and penalty (...) lies in the voluntary character of the former in recognition of the principle of justice and compulsory character of the latter as an assertion and asseveration of the authority of the law upon unwilling acknowledgers of it."⁴

Since, in the *Dharmaśāstra* and in the MA 1854, penance and penalty were both recognized as expiatory forms of reducing evil; both the king or his representatives (Prime Minister, *hākim* and other court officers) and the Brahmin (*Dharmādhikārin*) were involved in the juridical procedures. It was the traditional obligation of the king to punish the subjects when they committed sins. Even if the Brahmin decided upon the penances, the king or his representatives had to ensure that they were performed:

"The teacher (*ācārya*) should order those who, participating according to the *śāstras* (in the rites and duties of their caste), have left the right path through weakness of their senses, to perform penances proportionate to their sins following the sacred precepts. If a culprit transgresses the order (of the *ācāryas*), he shall conduct himself before the king. The king shall (send him) to his domestic priest (*purohita*), who should be learned in the law (*dharmaśūtra*) and the science of governing. He (the *purohita*) should compel those who are Brahmins by forcible means, with the exception of corporal punishment and enslavement, and reduce them into subjection with penitential acts." (*ĀpDhS* 2.10.12-16)⁵

4 Day 1982: 221.

5 Cf. Rocher 1980: 232, Day 1982: 222.

In other words, the king should not decide upon the penances himself. He needs the priest (*purohita*) or an assembly (*pariṣad*, office of the Dharmādhikārin) of more or less learned Brahmins.

However, since the punishments meted out by the king were also regarded as purification, he had not only temporal but also spiritual power: "The king substitutes himself for the Brahmin; by fixing the punishment, he chastises the sinner and so absolves him."⁶ It thus appears that the king can take the sin of the culprit upon himself and that he can also digest his evil. The *locus classicus* is *Manusmṛti* 8.318:⁷

*rājabhir dhṛtadaṇḍās tu kṛtvā pāpāni mānavāḥ /
nirmalāḥ svargam āyanti santaḥ sukrīno yathā //*

"But men who have done evil and have been punished by kings become free of defilement and go to heaven, just like those who have done good deeds."

Penance and penalty, thus, purified sinful men. But as Wilhelm Gampert⁸ aptly remarked, only by the clear distinction between *daṇḍa* and *prāyaścitta* did the penitential power of *daṇḍa* become comprehensible. It is therefore evident that both systems had become increasingly cumulative. Penance had become both supplementary and substitutional to penalties.⁹

Although the MA 1854, due to its style and language, was certainly not a classical Dharmaśāstra text, it followed the principles of traditional Hindu law in many points, especially in that it focussed on the social dimension of evil. For example, the MA 1854

—regarded any offence as anti-social, even if it only concerned personal guilt and penitential punishments.

—prescribed *daṇḍa* but not *prāyaścitta* for the Untouchable castes.¹⁰ The "Untouchables" were not regarded as ritually prepared enough to perform Brahmanical forms of expiation.

—accorded Brahmins (especially Upādhyāya Brahmins) special privileges: e.g. no death penalty, although Brahmins were rarely¹¹ completely exempted from penal modes of punishment. This reflected a basic concept of Hindu purity, namely to keep the socio-hierarchical status which someone had

6 Lingat 1993: 234.

7 Cf. Wezler 1995: 122 with fn. 124.

8 Gampert 1939: 249.

9 Cf. Day 1982: 217.

10 Cf. BaudhDhS 2.2.3.51.

11 See ĀpDhS 2.5.10-11.1.

ritually acquired (e.g. through the Second Birth). In other words, to become impure meant to be socio-ritually imbalanced.

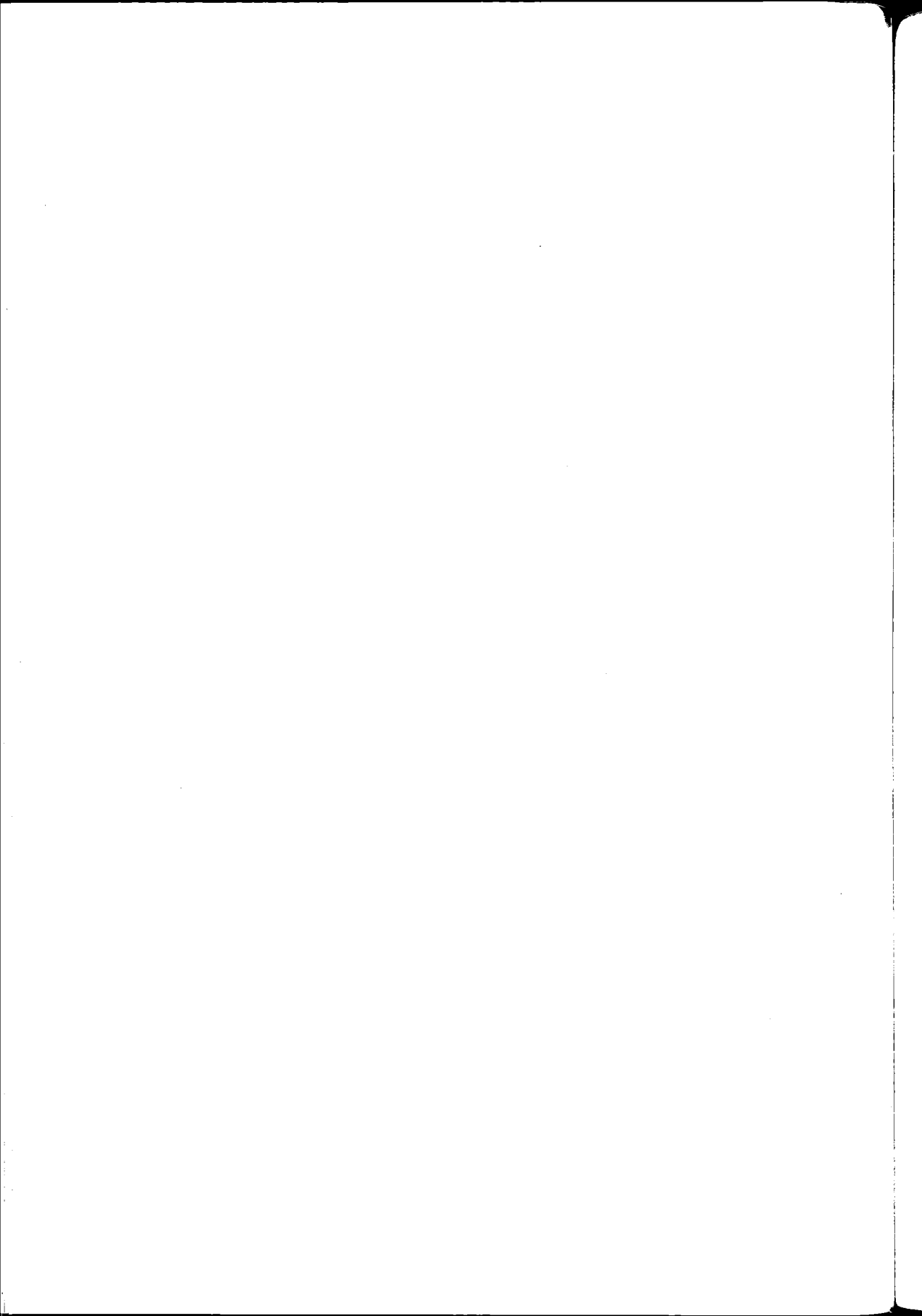
In conclusion, it must be stated that the MA 1854 basically confirms the theory on sin and crime of Robert Hertz, who first pointed out the essentially social aspect of sin (and expiation) in traditional societies.¹² Before (and even after) Hertz, many scholars have regarded sin as private; an act concerned with personal guilt, redeemable only through optional expiation and necessary for the spiritual welfare of the individual. Crime, on the other hand, has been regarded as a public transgression of the social order; it is concerned with morality and ethics, redeemable only through a publicly announced or performed punishment, and necessary for the social balance. Hertz, however, made clear that holiness (or purity) is not yielded by nature but by ritual. In a remarkable review of Hans Windisch's book "*Taufe und Sünde im ältesten Christentum bis auf Origines: Ein Beitrag zur altchristlichen Dogmengeschichte*" (Tübingen 1908),¹³ he demonstrated that an individual becomes a member of a society only through ritual initiation. He or she can lose this membership through sinful deeds and regain or keep it through expiation. Thus, sin not only affects the relationship between the sinner and god, but the social order: "le péché attaque un ordre moral, prescrit par l'Être divin, et ne produit ses conséquences que dans la mesure où la foi est là pour donner réalité et vie à des représentations d'ordre idéal."¹⁴

¹² Hertz 1996; see also Parkin 1995.

¹³ I am grateful to Frank Neubert's unpublished MA thesis on R. Hertz for this reference (Neubert 2001). See also Neubert 2004.

¹⁴ Hertz 1988: 46.

II. Editions and Translations



1. Introduction

The present editions and translations of the chapter on the Dharmādhikāri(n) in the MA of 1854 (V.S. 1911) and 1888 (V.S. 1945) are based on the following manuscripts and editions:

(1.) *Mulukī Ain* of 1854¹

(1.1) Edition of Surendra Vikrama Śāha, V.S. 2022 (MA 1854-Ed1)

Śrī 5 Surendra Vikrama Śāhadevako Śāsanakālamā baneko Mulukī Aina. Kathmandu: Śrī 5-ko Sarakāra, Kānūna tathā Nyāya Mantrālaya, V.S. 2022 (1965 A.D.), 712 pp. (includes amendments and additions made before V.S. 1922-23)—Chapter 89 (“Dharmādhikāriko”): pp. 379-406 (72 paragraphs).

This edition is based on at least three manuscripts which were presumably destroyed in the 1971 fire in the Simha Darbar (Central Government building). The edition was prepared by H.M.G. Nepal, Ministry of Law and Justice, under the guidance of Surya Bahadur Thapa (who later became Prime Minister). He dated the manuscripts used for the edition at circa V.S. 1922-1924.² However, in the National Archives are kept more than fifteen manuscripts of the MA. Some of these manuscripts differ significantly from the printed version.

(1.2) Manorañjana Press Edition, V.S. 1927-29 (MA 1854-Ed2)

Kathmandu: Manorañjana Press, V.S. 1927-29 (1870-71 A.D.). 5 pts.: I (248 pp.), II (200 pp.), III (232 pp.), IV (426 pp.), and Addenda (132 pp.)—Chapter “Dharmādhikāriko”: vol. 4, pp. 28-61 (33 paragraphs).

A printing press brought to Nepal from Europe by Jaṅga Bahādur Rāṇā was probably used for the first printing, the *editio princeps*, of the *Ain*, which

1 Quoted in the present book as follows: MA year of publication-manuscript/chapter/paragraph. e.g. MA 1854-MsB/89/1.

2 Preface (*Upoddhāta*), p. 6; cf. J. Fezas 2047: 16.

appeared seventeen years after its promulgation. The edition contains a handwritten document (*lālmohar*) with the seals of the Śāha kings Rājendra (regn. 1816-47), Surendra (1847-81) and Trailokya (son of Surendra, who did not rule) as well as the seals of Jaṅga Bahādur Rāṇā and other members from the Rāṇā clan. Each of the 33 paragraphs bears a seal (1.5 x 1 cm) of Jaṅga Bahādur Rāṇā at the beginning and end in order to avoid unauthorised alterations or additions.

(1.3) Jean Fezas' Edition, 2000 (MA 1854-Ed3)

Le Code Népalais (Ain), ed. by Jean Fezas, Torino: Comitato per la Pubblicazione del Corpus Juris Sanscriticum, 2 vols., 2000 (Corpus Juris Sanscriticum, vol. II; Sanskrit Series on Social and Religious Law, ed. by Oscar Botto).

This is the first critical edition of the MA 1854 and is mainly based on three manuscripts³ of which I have used the following two.

(1.4) Manuscript A, V.S. 1910 (MA 1854-MsA)

The manuscript dated V.S. 1910 (1854 A.D.) is kept in the National Archives Kathmandu under the subject number (*viṣaya na[mbar]*) Ca.La.Na. 2817. There is no title page, but the catalogue card bears the title "Aina"—Chapter "Dharmādhikāriko": foll. 466-486.

The manuscript is written in black, often faded ink using Devanāgarī script on fragile so-called "Nepālī" paper, and bound in book form (size 34 x 25.5 cm).⁴

The MS is numbered, starting on p. 34^r and ending on p. 856^v, with a barely readable table of contents of the different chapters. However, several pages throughout are missing. There are several additions due to the use of different scribes. Apparently, this book was used for formulating another amended version. Each paragraph has the following stamp at the beginning and end: *śrī jaṅga bahādura kūvar rāṇāji sadar*, from which it can be concluded that at the time of its composition, Jaṅga Bahādura Rāṇā had not yet received the title of *prāima miniṣṭara* (Prime Minister). It seems quite evident that this manuscript predates the manuscripts used for the MA 1854-Ed1-2.⁵

3 See the description of the manuscripts in Fezas 2000: xxviii-xlvii.

4 This manuscript is identical to Ms 1.1. used and described by Fezas 2000: xxxii-xxxiii.

5 See Fezas 1983: 287.

(1.5) Manuscript B, V.S. 1933 (MA 1854-MsB)

The manuscript dated V.S. 1933 (1876 A.D.) is also kept in the National Archives Kathmandu under the subject number (*viṣaya na[mbar]*) Ca.La.Na. 2818—Chapter “Dharmādhikāriko”: foll. 339-356.

This manuscript is very similar to MsA.⁶ It contains 678 pages, with an appendix of 32 pages titled Dhanakuṭā[-]aḍāke, “From the *aḍḍā* (court) of Dhankuṭā”. On its (handwritten) front page, it is confirmed that Yakṣa Bikram Rāṇā (the illegitimate son of Bam Bahādur Rāṇā, who was one of the brothers of Jaṅga Bahādur Rāṇā and also Prime Minister from 1856-57) had used this copy in Dhanakuṭā, a village in east Nepal.⁷

(1.6) Manuscript (C), V.S. 1919 (MA 1854-MsC)

The manuscript dated V.S. 1919 (1862 A.D.) is from the private collection of Śrī Aishwaryadhar Sharma, Lalitpur. It is part of a family diary in which many other texts are copied. The diary is written in black ink on Nepali paper and bound in book form sized 18.5x18 cm. The cover is animal skin, and the text is encircled on many pages by a floral design. In the chapter on the Dharmādhikārin (foll. 28-68), it is only numbered up to fol. 54, and the paragraphs are not numbered.

(2.) *Mulukī Ain* of 1888(2.1) Edition of Bīra Śaṃśer, V.S. 1945 (MA 1888-Ed)⁸

Ain. Ed. Bīra Śaṃśer, Kathmandu: V.S. 1945 [1888], corrected by Kharidāra Jogaratneśvara Jośī, Kathmandu: Nepāla Śrī Bīra Deva Prakāśa Yantrāla—Vol. 5, Ch. 32 (“Dharmādhikārako”), pp. 137-144 (33 paragraphs).

On the first page of this book, it is mentioned that the previous *Ain* was too long (*lambyāmāna*) and that several chapters were contradictory. Therefore, the Prime Minister amended the *Ain*, making it concise and complete. It is also mentioned that the book was printed according to the wishes of Commander-in-Chief Deva Śaṃśer Rāṇā.

6 This manuscript is identical to Ms 2.1 used by Fezas 2000: xxxv.

7 Cf. J. Fezas, *ibid.*, p. 289.

8 Quoted in the present book as follows: MA 1888 Year of publication/volume.chapter/-paragraph, e.g. MA 1888/5.32/1.

(2.2) Manuscript of V.S. 1942 (MA 1885-Ms)

The manuscript dated V.S. 1942 (1885 A.D.) has been put on microfilm by the Nepal-German Manuscript Preservation Project (Reel no. G12/4). There is no title page, but the catalogue card bears the title "*Mulukī Aina*". It also mentions that this *Mulukī Ain* seems to have been "revised by Rāṇā Prime Minister Bir Shumshere in V.S. 1942". The manuscript contains only the fifth volume (*Pañjikā, pāṃcau bhāgko*). A table of contents on the first page lists 23 chapters, of which the last one is titled "Dharmādhikāriko", foll. 43-46 (32 paragraphs).

The manuscript is written in black, often faded ink using Devanāgarī script on fragile "Nepālī" paper, and bound in book form (size 36.5 x 26.4 cm).⁹ The Manuscript has 132 folios. Fol. 2 contains a barely readable list of corrections. There are no official stamps at the beginning of the paragraphs. At the end there are some additions by various scribes. Apparently, this manuscript was used for the above mentioned edition.

9 This manuscript is identical to Ms 1.1, used and described by Fezas 2000: xxxii-xxxiii.

2. Edition of chapter 89 of the Ain of 1854

धर्माधिकारौ

१. उपाध्या ब्राह्मण. रजपुत जैसि क्षत्रि^१ गैह तागाधारि जात नमासिन्या मतवालि^२ गैहमासिन्या मतवालि गैह जात. इयुरोपियेन जात, मुसल्मान् जात. छोइ छिटो हालनु नपर्न्या पानि नचलन्या गैह^३ जात. छोया छिटो हालनु पर्न्या^४ गैह^५ जातले^६. गोर्षाराज भर्मुलुकमा गोवधगर्ना वाहेक. अरू आफना कुलले गरि. आया वमोजिम आफना आफना^७ मझ्फ्का. धर्म हुन्या काम कुरा सवैले गर्नु हुन्छ. यस्कुसामा कसैले रिस नगर्नु. एस्ता कुरामा रिस राग झगडा भै कचहरिमा कराउन आया भन्या. अर्काका मझ्फ्लाई षलल हुन्या कुरा गर्न्यालाई^८. १०० रूपैया दंड गर्नु. रूपैया नतिन्या ऐन वमोजिमकैद गर्नु. झगडा भै ज्यान मरेछ भन्या. मान्या काटिन्या जात भया. ज्यानको बदला ज्यान लिनु. नकाटिन्या जात भया ऐन वमोजिम अंस सर्वस्व गरि दामल गर्नु.

२. उपाध्या ब्राह्मण लगायेत तागाधारि जात र. नमासिन्या मतवाली जात मासीन्या जात गैहका. सधवा विधवाका करणिको वेभिचारभै. भोरमा भात पानिमा पन्यामा. मोष्य पुर्जि लिन्यालाइ. अदालत ठाना अमालवाट भोर को पतिया गराई दिनु पर्दा. औवल्लाई २ दोयमलाइ १॥ सिमलाई १ चहारलाइ ॥ का दर्ले दस्तुर लि धर्माधिकार. लाइ पुर्जि गरि दिनु.

३. धर्माधिकार वाहेक्. अरू कसैले विचमा पतिया दियो भन्या १॥ वर्ष कैद गर्नु. पतिया दिन्या मतलव मात्रै दिन्यालाइ. १ वर्ष कैद गर्नु. म्यादका रूपैया डवल्ला हिंसावले दिया लि छाडि दिनु.

४. धर्माधिकारले पतिया दिदा भोरको मात्र पतिया दिनु. जानिजानि पर्न्यालाई सर्कारको हुकुम र. मुषतियारको मर्जि. भयो भन्या र. ऐन मा पतिया नदिनु भन्याकालाई. हुकुम^९ मर्जि भयो भन्या.

1 C षस (in the following, A,B,C refer to the used manuscripts as described above).

2 C adds जात.

3 B adds गैह.

4 A adds पानि नचलन्या.

5 B omits गैह.

6 B adds गैह.

7 A adds जातमा आफना; C जातमा. आफना.

8 A, C गर्ने आउन्यालाइ.

9 A, B and C add र.

लाल मोहर दस्बत गराई लि¹ पतिया दिनु. जानिजानि पतिया नदिनालाइ विना लालमोहर दस्बतले पतिया दियो भन्या मोष्य धर्माधिकारलाई ५०० रूपैया दंड गरि धर्माधिकारिकाम झिकि दिनु. कारिदाहरूले गन्याको रहेछ. भन्या कारिदैलाई ५० रूपैया दंड गरि षोसि दिनु.

५. जात भात जान्या बिराउ गन्यालाई. ऐनले पानिको पतिया दिनु भन्या लेषियाका कुरामा. ऐन वमोजिमको वापतिलाई सजाय सर्वस्व. जरिवाना नगरि कन पानिको पतिया दिन्या. मोष्य हाकिमलाई ४० रूपैया जरिवाना गर्नु. वापतियालाई. ऐन वमोजिम सजाय गरि सक्छा पछि मात्रै पानिको पतियादिनु भनि ऐनमा लेषियाकालाई पतिया दिनु.

६. अडा गौडा अदालत ठाना अमालका हाकिम डिठ्ठा विचारि अमालि द्वाज्या कसैले तागाधारि जातको. अधिका हाकिमले. भात नचलन्या ठहराई. भात वाहेक गन्याकालाई. जालसाज गरि वा. अधिका कायेलनामा. जमान्वंदी. दवाई. यस्को भात चलन्या रहेछ भन्या. झुठो कागज गरि सर्कार नसायी. भात चलायाको रहेछ र. कुरो बुझदा. अधिका हाकिम गैहले. गरायाको कायेलनामा. जमान्वंदी. सदर ठहर्न्यो. भात नचलन्यै ठहर्न्यो भन्या भात चलाउन्यामा. कचहरिका हाकिम द्वाज्या जो हो. उस्ले भात षायाको रहेनछ भन्या जात जादैन् ५०० रूपैया दंड गरि छाडि दिनु. भात चलाई आफुले स्मेत् षायाको रहेछ भन्या. ५०० रूपैया दंड गरि. जनै झिकि जात वाहेक गरि. छाडि दिनु. रूपैया नतिन्या ऐन वमोजिम कैद गर्नु.

७. कोहि इज्जको थाहा नराषन्या. गन्या नगन्या. कुराको पनि विचार नभयाका षान्या नषान्या कुराको पनि. षवर. राषन नसकन्या. गरि वौल्हायाका मानिस्ले. अभक्ष कुरो केहि षायो भन्या र. अछुति जात कसैका हातको र. आफु भंदा घटि जात कसैका हातको षायेछ भन्या. तेस्तालाई^२. बुद्धि ठेकान्मा आया पछि औवल्लाई ५ दोयंलाई ४ सिमलाई ३ चहारलाई २ रूपैयाका दर्ले धर्माधिकारलाई गोदान दिलाई प्रायश्चित गराई दिनु.

८. आफना मुनासिवले^३. दुषले विरहले मर्छुभनि फाल हालन्या. सेरन्या हतियार रोपन्या. पासो लाउन्या. विष गैह मरिन्या कुरो. आफैले षान्यालाई. औषधि गर्दा वाच्यो भन्या गक्षअनुसार. एक आना देषि माथि २ रूपैयासम्म. धर्माधिकारलाई गोदान दिनु. उनले पतिया प्रायश्चित. गराई^४ दिनु. एस्तालाई अमालिको षत लाग्दैन्.

९. विरां गरि काटिन्या झुँडिन्या मर्छु भनि. अपहत्या गरि झुँडिन्या आफैले हतियार चलाई मन्या. गंगा भिर इनार. छाना^५ षाडिमा. फाल हालन्या. जहर विष षान्या एस्ता अपहत्या गरि मन्या र.

1 A omits लि.
2 A, B तेसलाई.
3 C adds र.
4 C omits गराइ.
5 C adds इनार.

पानि नचलन्या जातका. हात वाट मन्याको धर्माधिकारको दस्तुर. औवल्लाई १ दोयंलाई^१॥. सिमलाई र. चहारलाई १. गोदान पर सारि. अमालिका जिम्मा दिलाई. छोरा भाई गोतियाहरूले कृया गर्नु.

१०. सर्कारवाट ज्यूको वदला ज्यान लि मारियाकालाई. उन्का भाई छोरा^१ गोतियाहरूले^२ सत गति गर्न पाउन्या हुं भनि. भन्न आया भन्या. अदालत ठाना अमालवाट. पुर्जि गराई^३. धर्माधिकारवाट पनि. प्रायश्चितको पतिया. दि काजकृया गर्न दिनु. गक्ष अनुसार. एक आना देषि उभो. २ रूपैयासम्म लि पतिया गरि दिनु.

११. हाडनातामा. आफु भंदा घटि जातमा पानि नचलन्या जात्मा छिटो हालनु पर्न्या जात्मा करणि भै भयो भात पानि षाई भयो. जात भात पानि. वाट पतित भयाका कोहि मानिस. मन्या. उन्का भाई छोरा भतिजाहरूले पतिया पाया काजकृया गर्दा हुं भनि भन आया भन्या. कृया शुद्ध भन्या विहोराको. पतिया गराई दिनु.

१२. कसैले नाता गोत्र आफु भंदा कमजात^४ छोया छिटो हालनु पर्न्या जातमा विग्रि भयो आफु भंदा घटि जातका हातको भात पानि षाई भयो. जात पतित भया का मानीस मन्या भन्या तेस्ताको कृया शुद्ध को. पतिया नगरि. कृया गन्यालाई र. गराउन्यालाई^५ ५। ५ रूपैया दंड गरि औवल्लाई. २ दोयंमलाई १ सिमलाई ॥. चहारलाई १. लि धर्माधिकारवाट. भात पानिको पतिया दिनु.

१३. कोहि लोभ्या स्वास्त्रिले कसैको ज्यान्माज्याको र. जात्कमाज्याको रहेछ अधि थाहानपाई पछि जाहेर भयो भन्या तेस्ता पातकिका हातको. भोरमा षान्यालाई भताहा गैहलाई. अबल्लाई ३॥^६ दोयंमलाई १॥। सिमलाई ॥। /^७ चहारलाई १. ///का दर्ले गोदान लि धर्माधिकारले भात पानिको पतिया^८ दिनु.

१४. दामल भयाका. काटियाका पतित भै. जनै झिकियाका. अछुति जातमा करणि गरि भात पानि वाहेक भयाका र. उसै जात्मा मिलायाका मानिस मन्या भन्या उस्का भाई छोरा छोरि वंस कसैले. इन्को कृया शुद्धको पतिया. पायाकृया गर्दा हुं भन्न आया भन्या औवल्लाई ५ दोयंलाई ४ सीमलाई ३ चहारलाई २ रूपैया का दर्ले धर्माधिकारले^९ गोदान लि कृया शुद्धको पतिया गराई दिनु.

1 A, C add हरूले.
2 C omits तियाहरूले.
3 A, B, C add दिनु.
4 A adds नि नचलन्या.
5 C omits गराउन्यालाई.
6 C २॥.
7 A १॥.
8 A, C add गरि; B adds गरी.
9 A, B omit धर्माधिकारले.

१५. अर्काको करणि भात पतरिको. वेहोरा नवुझि. भात पानि काढ्यो पछि संकाको वेहोरा नपुन्याई. रिसले पोल्याको ठहर्न्यो भन्या. पोलन्यालाई ११ मैन्हासम्म झेल षानामा कैद गर्नु. कैदका रूपैया तिर्नु भन्या पनि. एस्तालाई रूपैया लि नछाडनु. कैदै गर्नु. पोलन्याले भन्या संकाको वेहोरा. पुन्याई पोलेछ. रोवकार गर्दा करणिमा^१ भन्या कायेल गर्न सकेन. भताहाले भात षान्या ठहर्न्यो भन्या पोलन्यालाई १० रूपैया दंड गर्नु. रूपैया तिरेन भन्या. ऐन वमोजिमकैद गर्नु. पोलाई माथ्यालाई. प्रायश्चित पढैन. जातैमा मिल्छ.

१६. तागाधारि जात गैह कसैले मुडिन्या कर्म गरि. मुडि नमासिन्या शुद्र जातमा मिलाई पानिको पतिया दियाका मानिस्का विवाहिता स्वास्त्रिवाट हवस्. अरू. स्वास्त्रि. ल्याई उस्वाट. जन्म्याका हवस्. एस्ताका संतांको नुवारान् पास्त्रि. विहा काज कृया गर्दामा. ब्रांह्मणले नमासिन्या शुद्र जातका सरहको कर्म गराई दिनु. पानिको पतिया नभयाकाको कर्म केहि नगराउनु. पानि नचलन्याका हो^२ कर्म गराउन्या ब्रांह्मणलाई २. कर्म गर्न्या जजमानलाई ५। ५ रूपैया दंड गर्नु रूपैया नतिन्या १। १ मैन्हा कैद गरि. छाडि दिनु.

१७. पातकिहरूलाई पानिको पतिया दिदा ऐनमा पानिको पतिया नदिनु भनि लेषियाका हाडनाता. का षत्मा र. छोइ छिटो हालनु पर्न्या जातसित करणि भै. इनैका हातको भात पानि षाई. उसै षत्मा मुडियाका. पातकिका हातको पानि चल्दैन. एतिलाई. पतिया नदिनु. एति कलम् वाहेक. अरू कुरामा मुडियाका मानिस पातकि शुद्र जात^३ हुं छन्. पानि चल्छ. भातको पतिया पाउंदैन. इन्लाई पानिको पतिया दिदा. औवछाई १० दोयछाई ८ सिमलाई ४ चहारलाई २ रूपैयाका दर्ले धर्माधिकाले गोदान लि पानिको पतिया दिनु. एस्ता पातकिले ब्रांह्मणलाई. टिका लाउन हुदैन. दान दक्षिना दिन भन्या हुंछ. टिकानलाई दान दक्षिना दिनु. एस्ताका हातको टिको लाउन्या ब्रांह्मणलाई २॥. टिकालाई दिन्यालाई ५ रूपैया दंड गर्नु. रूपैया नतिन्या ऐन वमोजिम कैद गरि छाडि दिनु. थाहा नपाइ टिका लाउन्या ब्रांह्मणलाई षत वात लाग्दैन.

१८. स्वास्त्रि मानिस कसैले आफनु लोभ्या भनि भोरमा हवस् अथवा. दस इंद्रीय. चलन नसकन्या गरि लागु गैह षुवाई. वेहोस भयाका वेलांमा हवस्. आफना लोभ्या वाहेक अरू ब्रांह्मण लगायेत. पोढ्यासम्म^४ कसैसित करणि भयेछ र. भोरमा पन्या पतिया पाउँ भनि. स्वास्त्रि कराउन आई भन्या. भोर्मा अर्का लोभ्यासित करणि भयो भन्या. स्वास्त्रिले पतिया पाउदिन. स्वास्त्रिको भोर ठहर्दैन. लोभ्या मानिस भोर्मा पन्याको भया ऐन वमोजिम प्रायश्चित पाउछ.

1 C only करणि.

2 A को; B and C omit हो.

3 A, B and C omit जात.

4 A, B, C add का.

१९. उपाध्या जैसि ब्राह्मण गैह तागाधारि मतवालि जातका सधवा विधवा स्वास्त्रि र. कन्या केटिको. करणि ली. सो करणि जाहेर नभै लोभ्या चाहि भागि गै षोजदा फेला परेन भन्या र. मरि गयेछ भन्या. अरू कसैले जान्या सुन्याको रहेछ भन्या जाँन्या सुन्याको मुचुल्का लि. भोरमा पन्याका भताहालाई. प्रायश्चित गरि दिनु. जाँन्या सुन्या. मानिस्कोहि रद्धानछन् भन्या. तेस्ता वेभिचारिनि स्वास्त्रिको जमानवदि कायेलनामा जो गर्नु पर्छ. गरि भताहालाई. भात पानिको भोरको प्रायश्चित गराई दिनु.

२०. उपाध्या लगायेत. चार वर्ण छतिसै जात. गैहका लोभ्या मानिस कसैले हाड नातामा र. पानि नचलन्या छोया छिटो हालनु. नपर्न्या जात गैहका स्वास्त्रिको करणि गरि भात पानि^१ षाई. आफना स्वास्त्रिलाई पनि करणि गरेछ. भात पानि स्मेत् षुवायेछ र. कचहरिवाट तेसलाई. तैले स्वास्त्रि सित कुरो. प्रकास् गरिस कि गन्याको छैन. भनि सोधन नपाउदैमा. लोभ्या भागि गयेछ. स्वास्त्रिले मेरा षसम्को. तेस्तासित करणि भयाको भात पानी षायाको मैले थाहा पायाको थियेन मैले षसम्लाई करणी भोरमा दियाको हो. भात पानि षायाको हो भनि कराउन आई र. लोभ्या पक्रिया पछि. यो कुरो लोभ्याले मलाई प्रकास गन्याको ठहर्न्यो भन्या मलाई जात पतित गरि दिनु. भन्या मुचुल्कालेपि दिया भन्या. कागज लेषाई लि पतिया गराई दिनु. गर्भको वालष स्मेत् आमाका पतियाले शुद्ध हुंछन्. लोभ्या पक्रिया पछि. रोवकार गर्दा प्रकास गन्याको ठहर्न्यो भन्या जात बाहेक गरि तेस्ताका हातको षान्यालाई पतिया गराई^२ दिनु. जाहेर गन्याको ठहरेन भन्या. स्वास्त्रि सध ठहरि भात पानिमा चल्छे.

२१. ऐनले षत लागि भात पानि जान्या. हाडनातामा करणि गर्न्या. लोभ्याले करणि गन्याको जाहेर नभै आफना विवाहिता र. भात षाजा चलन्या सम्मका अरू स्वास्त्रि. को करणि लियेछ. स्वास्त्रिले थाहा नपाई भोरमा दियाको रहेछ भन्या. तेस्ता भोरमा पर्न्या स्वास्त्रिलाई भात पानिको पतिया गराई दिनु. लोभ्या विध्या पछि करणि भै. गर्भ रहि छोरा छोरि स्मेत् जन्म्याका रद्धानछन् भन्या. पानि चल्छ. भात चल्दैन छोराछोरि. स्मेत् आमाका पतियाले शुद्ध हुंछन्. स्वास्त्रिले लोभ्या विध्याको जानि. जानि करणि गराइछ भन्या विध्याको लोभ्याको जौन जात भयाको छ. उसै जातमा मिल्छे. छोराछोरि पनि आमाकै जातमा मिल्छ.

२२. पानि नचलन्या^३ छिटो हालनु नपर्न्या जातका^४ स्वास्त्रिको जानि जानि करणि मात्र गर्न्या. भात पानि भन्या नषान्या लोभ्या मानिसले आफु विध्याको जाहेर नगरि पतिया नभै अरू आफना विवाहिता वा ल्याईता. वेस्या गैह. स्वास्त्रिको करणि गरेछ वा. आफना हातको. भात पानि षुवायेछ र. पानि नचलन्या जातसित लोभ्या विध्याको. थाहा नपाई भोरमा. आफना लोभ्यालाई करणि दिन्या र. उस्का हातको भात पानि षान्या स्वास्त्रिलाई तेस् लोभ्याले पतिया गरि जात पाउन्या

1 A and C add also पनि.

2 C omits गराई.

3 A, C add छोया.

4 The text in A and C is different here. See Appendix I.

हुनाले. त्यो करणि दिन्या भात पानि षान्या. स्वास्त्रि र. गर्भका वा. पछि जन्म्याका संतान. स्मेत् तेसै स्वास्त्रिका पतियाले शुद्ध हुन्छन्. यस्ताका हातको भात पानि चल्छ. भोरमा करणि दि. पतिया नभै आमा. मन्थाकि रहिछ. संतानले पतिया मात्र आया. पतिया दिनु. आफ्ना लोभ्याले येस्ता स्वास्त्रिको करणि गन्थाको¹ थाहा पाई. आफुले करणि उस्का हातको. भात पानि वचाई लाज सर्भले. मात्र कुरा² गर्न नसकि दवाई. भोरमा³ पारि. अरू भताहा भाई.⁴ भात पानिमा वोरियाका रद्याछन् भन्थ्या. आफुले कुरो थाहा पाया पछि दुनिया भात पानिमा. पर्न्या कुरो दवाया वावत्. स्वास्त्रिलाई २० रूपैया दंड गरि. भोरमा पर्न्यालाई. भोरको पतिया गराई दिनु.

२३. छोई छिटो हालनु पर्न्या जातसित. जानि जानि विग्रन्या र. इन्का हातको भात पानि षान्या लोभ्या मानिसले आफुले करणि गन्थाको वा. भात पानि षायाको जाहेर नगरि. अरू आफ्ना विवाहिता वा ल्याईता. वेस्या गैह स्वास्त्रिको करणि गरेछ वा आफ्ना हातको भात पानि षुवायेछ र. लोभ्याले. छिटो हालनु पर्न्या एस्ता जातको. करणि गन्थाको वा. भात पानि षायाको थाहा नपाई भोरमा. आफ्ना लोभ्यासित करणि गराउन्या वा. भात पानि षान्या. स्वास्त्रिको गर्भ रद्याको रहेनछ भन्थ्या. भात पानिको पतिया गराई दिनु. जात जादैन. गर्भ रद्याको रहेछ भन्थ्या. भात चल्दैन. पानिको मात्र पतिया दिनु. तेसवाट पछि जन्म्या का संतान. का हातको पानि⁵ चल्छ. भात चल्दैन यस्ता ब्राह्मण लगायेत्. तागाधारी जातका संतानले जनै पाउदैनन् नमासिन्या शुद्र जात हुन्छन्. नमासिन्या मतवालि जातका संतान मासिन्या मतवालि जात हुन्छन्. मासिन्या मतवालिका⁶ संतान. उस भंदा कम. मासिन्यै जात हुन्छन्. आफ्ना लोभ्याले यस्ताको करणि समेत् गरि वा उसै भात पानि षायाको छ भन्थ्या. कुरो थाहा पाई आफुले उस्का हातको. भात पानि करणि वचाई. लाज सर्भले. मात्रै कुरो जाहेर. गर्न नसकि दवाई. भताहा भात पानिमा वोरियाका रद्याछन् भन्थ्या. आफुले कुरो थाहा पाया पछि. दुनिया भात पानिमा पर्न्या कुरो दवाया वावत्. स्वास्त्रिलाई २५ रूपैया दंड गरि. भोरमा पर्न्यालाई भोरको पतिया गराई दिनु.

२४. मुडिन्या जात कसैले आफ्ना सर्कारको षलल हुन्या. उत्तर दक्षिनका वादसाहा सित वेत्यास् पर्न्या. आफ्ना राजा. वजिर उमराव. भारादार. को ज्यान जान्या काम कुरो. केहि गन्थाको रहेनछ. अर्काका स्वास्त्रि विगाज्याको ज्यान माज्याको. पनि रहेनछ. अरू मुडीन्या षत् वात् हरू⁷ पनि⁸ केहि गन्थाको रहेनछ. वजिर भारादारका रिस रागमा⁹ परी मुडियाको रहेछ. र मुडिदामा. अभक्ष समेत् षुवायाको रहेछ भन्थ्या. तेस्ताले भातको पतिया पाउदैनन् पानिको पाउछ पानिको मात्र पतिया दिनु.

- 1 B adds कुरो.
- 2 B adds जाहेर.
- 3 B omits मा.
- 4 B omits भाई.
- 5 B adds मात्र.
- 6 B मतवालिजातका.
- 7 A, B, C षतवातहरु.
- 8 B omits पनि.
- 9 A, C omit राग.

मुडियाको भन्या हुं अभक्ष पुवायाको होइन. पतिया पाउं भन्यालाई, अधि मुडिदा. अभक्ष पुवायाको रहेछ रहेनछ भनि भारादारहरूले तजविज गरि. अभक्ष पुवायाको ठहरेन भन्या. पतिया पाउंछ. मानिस हेरि औवल्लाई २५ दोयंझाई १२॥ सिम्लाई ६ चहारलाई ३ रूपैया का दर्ले गोदान लि धर्माधिकारले भात पानिको. पतिया गराई दिनु. प्रायश्चित. गरि जात भाईमा मिल्छन्.

२५. छोइ छिटो हालनु पर्न्या जात वाहेक हाड गोत्र र. तल्लो छोइ छिटो हालनु नपर्न्या जातसंग भात पानि नषाई. करणि गर्न्या ब्राह्मण रजपुत क्षत्रिय तागा धारिका महल् १ मासिन्या पानि नचलन्या. जातले उपल्लो ब्राह्मणी सम्मको^१ गोत्रि नाता गोतामा करणि गर्न्या. महल् २ आफना प्रतिव्रता स्वास्निको उपाध्याजैसि ब्राह्मणलाई जार हांन्या महल् ३ राजकाजमा मुडिन्याको^२ महल् ४ एति चार तरहका तक्सिर. वालाहरू इनहरूका मुषमा दाग लाग्याको रहेनछ अक्षर षोदियाको रहेनछ. भन्या आफना सर्कारको. परचक्रिसंग लागि पर्दा. सर्कारका काजमा लडि देहान्त प्रायश्चित गरि मरौला भनि सख् चल्याका. ठाउमा पुगि जुद्ध गरि. लड्या भन्या धर्माधिकारवाट पतिया दिनु ७ पुस्तासम्मका हाडमा^३ पर्न्यालाई तक्सीरमाफ पानि चल्छ. भात चल्दैन. अरू थोकको तक्सीर गर्न्यालाई भात पानी चल्छ.

२६. छोइ छिटो हालनु पर्न्या नपर्न्या साना जातसंग^४ विराभै मुषमा^५ जातका अक्षर षोदियाका दामल्का. अक्षर. षोदीयाका छोइ छिटो हालनु पर्न्या जात र. पानि नचलन्या जातसित पानि चलन्या जातले करणि गरि ऐन वमोजिम अंस सर्वस्व गरि पानि वाहेक भयाका. पानि नचलन्या छोया छिटो हालनु पर्न्या नपर्न्या जातका हातको जानि जानि भात पानि षायाका यति तरहका दाग लाग्याकाले. जात भात पाउंदैन. लडाजिमा सख् चल्याका ठाउमा पुगि लड्यामा. पानि जात भात पानि^६. पाउंदैनन्. तक्सीर माफ.

२७. चार वर्ण छतिसै जातले दामल हुन्या तक्सीर गरि. मुषमा षोदि दामल भयाका लोग्या स्वास्नि कोहि भागि गै. तिनैवाट जन्म्याका संतान. पातकि जात हुंछ तिनले पानि नचलन्या जातका हवन. वा. छोया छिटो हालनु. पर्न्या जातका स्वास्नि हुउन्. तिन्मा आफना राजिवाजिसित उन्का भात पानि वचाई. लैगया भन्या^७. षत वात लाग्दैन. पानि चलन्या^८ गैह^९ जातका^{१०}. स्वास्नि लैजान्यालाई. छिटो हालनु पर्न्या जातले लैगयामा जो सजाय हुन्छ सोहि वमोजिम सजाय गर्नु.

1 A, B and C add र.

2 B मुडियाको.

3 B omits मा.

4 A, B, C जातगैहसंग.

5 A, B, C add जात.

6 C omits पानि.

7 A, C add तिन्लाइ; B adds also लै ग्या.

8 A, B, C add जात.

9 B adds का.

10 A, C omit जात; B omits जातका.

२८. चार वर्ष छतिसै जातका करणि सर्वधी र. घटि जातको^१ भात पानि षायो कुरा देषि जानि उन्का हातको भात पानि. षायेछ. अरूलाई बोन्याको रहेनछ भन्या जौना जातका हातको भात पानि षायो छ उसै जात्मा मिलाइ दिनु. दंड सर्वस्व हुदैन् आफुले भात पानि षाई अरू दुनिजालाई पानिमा र. भताहालाई भातमा वोरेछ भन्या. ऐन वमोजिमको अंस सर्वस्व गरि. उसै जात्मा मिलाई दिनु. उसकी स्वास्त्रिले भोरमा करणि दिछ. छोरा परियारले भात पानि^२ षायोका र. ह्याछन् भन्या भोरको पतिया गराई दिनु स्वास्त्रिले जानि जानि^३ करणि गरायाको रहेछ भन्या र. अरूले^४ जानि जानि तेस्का हातको. भात पानि षायामा १२ वर्ष^५ उभोकालाई^६ तेसै^७ जात्मा मीलाई दिनु १२ वर्ष मनिका अजान^८ वालषलाई^९. पतिया गराई. दिनु. घरका मुख्य कारणिको सर्वस्व भया पछि. अरू जहान्को सर्वस्व हुदैन्. मासिन्या जातले. आफुले. भात पानि षाई आफ्ना भताहालाई. भातमा र. अरूलाई पानिमा बोन्याको रहेनछ भन्या. उसै जात्मा मिलाई दिनु. दंड सर्वस्व हुदैन् भताहालाई. भातमा र. अरूलाई. पानिमा बोरेछ^{१०} भन्या. जात वाहेक गरि. उसै जात्मा मिलाई मासि दिनु. स्वास्त्रिले भोरमा करणि दिछ. छोरा परियारले भात पानि षायो छन्भन्या भोरको पतिया गराई दिनु. स्वास्त्रिले जानि जानि करणि गराईछ. अरूले तेस्का हातको जानि भात पानि. षायेछन्भन्या. १२ वर्षदेपि^{११} उभोकालाई. तेसै^{१२} जात्मा मिलाई दिनु १२ वर्ष मनिकालाई पतिया गराई दिनु. मुख्य कारणि मासिया पछि. अरू जहान्. मासिदैन्.

२९. तागाधारि लगायेत् चार वर्ष छतिसै जात गैह मानिसहरू देस पर्देस गयामा बेरामी भै घा लागि. लोटि जनावरले हानि. टोकि साहै थलि आफ्नु समर्थ. नचल्यामा र. असष. भयाका वेला. आफ्नु^{१३} जात मिल्दो. कोहि नभयाका जगामा. परदेसमा आफु भन्दा घटि जातका हातको भात पानि नचलन्या जातका हातको पानि षायो समर्थ चल्या पछि. मलाई साहो बेराम भै असष भयामा फलानाका हातको. भात पानि षाजा भनि. आफैले जाहेर गर्न आयो भन्या. आफ्नु समर्थ नचलन्याका वषत्मा र. जात मिल्दो कोहि नभयाका जगामा उपकार निमीत्त. षुवायको हुनाले. षुवाउन्यालाई षत वात लाग्दैन्. षान्यालाई प्रायश्चित दिनु असषमा षायोको. आफैले जाहेर गरेछ. प्रायश्चित. नभै मरेछन् भन्या. उस्का भाइ छोरा परियारले पनि प्रायश्चित पाउछन्. असष भयाकामा

1 A—का; B—का; C—क. B and C and add हातको.

2 A, B, C पनि.

3 C omit जानि.

4 B adds also पनि.

5 C adds का.

6 C उमेरकालाई.

7 A, B, C add का.

8 C adds लाइ.

9 A, B omit बालष; C omits बालषलाई.

10 B बोन्याको and adds also रहेछ.

11 A, B, C omit देषि.

12 A adds का.

13 C adds आफ्नु.

आफु भंदा कम् जातका हातको. भात पानि षायो षान्या षुवाउन्या दुवैले जाहेर गन्थानन् दवायाका कुरा. अकैबाट जाहेर भयो भन्या जाहेर नगन्थोको हुनाले षुसिले षायोको ठहर्छ. षुवाउन्यालाई २० रूपैया दंड गर्नु. षान्याले पतिया पाउदैन् नदिनु. आफुले षाई अरूलाई भातमा^१ वोरेछ भन्या ४० रूपैया दंड गर्नु. रूपैया नतिन्या ऐन वमोजिमकैद गर्नु.

३०. कसैका वावु आमा पानि नचलन्या जात. छोइ छिटो हालनु पर्न्या जातसित करणि गरि भयो भात पानि षाई भयो पतित भै उसैका जात्मा. मिल्याका र. वावु आमा नविग्रदै. अधि जन्म्याका छोराछोरि पनि वावु आमासितसंग रहि भात पानि षायोका र. तेस्ता केटाकेटिका. मावली दाज्यू भाई. इष्टमीत्रले^२ १२ वर्षसम्ममा. इ सद्य छदा जन्म्याका हुन. इनलाई पतिया दिया भात पानि मालिन्छौ भनि भन्त्र आया भन्या तिनलाई प्रायश्चित गराई दिनु. वारिस कोहि रहेनछ भन्या १२ वर्ष देषि १६ वर्षसम्म ज्ञान पस्या पछि वावु. आमादेपि भात पानिमा. फरक रहि वस्याका र. हामि अज्ञान वालष थिजू हामिलाई पालन्या कोहि ननिसकदा. वावु आमासित रहि वस्याका र. हामि अज्ञान वालष थिजू हामिलाई पालन्या कोहि ननिसकदा. वावु आमासित भजि. र. ह्याका थिज्यू प्रायश्चित पाउन्या हुं भनि कराउन आया भन्या ति अजान मा षान्या ठहर्छन्. एस्तालाई. अदालत ठाना अमालमा भन्त्र आया भन्या पनि अथवा भन आया नन्. अरूले थाहा पायाको भया पनी. तहकित गरि प्रायश्चित गराई दिनु. १६ वर्ष नाघ्या पछि पनि भात पानिमा भजि र. ह्याकाले पतिया पाउदैन्. इ प्रायश्चित पाउन्या हुं भनि विग्र्याको वेहोरा जानि जानि पानि चलाउन्यामा पुर्जी गरि दिन्या मुख्य कारिदा जोहो उस्को. ऐन वमोजिमको अंस सर्वस्व गरि. चलाउन्यामा पुर्जी गरि दिन्या मुख्य कारिदा जोहो उस्को. ऐन वमोजिमको अंस सर्वस्व गरि. तागाधारिको जने झिकि. अरूलाई तेसै उसै. जात्मा मिलाई दिनु. अरू पानि चलन्या हो भन्या. थरि मुषियालाई. २०। २० रूपैया कचहरिमा वस्या भलामानिसलाई ५। ५ रूपैया दंड गर्नु. कचहरिमा नवस्याकालाई दंड केहि पर्देन् भात पानि षान्या भताहा र. तेहि पानि चलाउन्याका जहानलाई. हामिलाई पतिया हवस्. यस्ता सित मिल्दैन् भनि. भन्या पतिया गराइ दिनु.

३१. उपाध्या ब्राह्मणदेपि. तागाधारि. जात गैहले आफुलाई. जन्माउन्या आमा र. आफुले जन्मायाका छोरि वाहेक. आफ्ना हाडनाता. मा करणि गरि मुडियाका र. अरू राजकाजमा मुडियाका पतिया नभै इनै पातकिवाट जन्म्याका संतान्. ले पानिको पतिया पाउछन्. नमासिन्या शुद्र जात हुन्छन्.

३२. चार वर्ष छतिसै जात^३ गैहका १२ वर्ष नाघ्याका लोभ्या मानिसले छोइ छिटो हालनु पर्न्या^४ जातमा र^५. पानि नचलन्या जातमा. आफ्ना हाड नातामा करणि गन्थोको रहेछ. अभक्ष नरक गैह षायोको रहेछ. गाड मरायाको रहेछ. र त्यो कुरा जाहेर नभै. आफ्ना जातका कुटुम्बले छोरि वीहा गरेछ. विहामै सकिया पछि येति गैहमा १। २ उपग्र. गन्थोको जाहेर भयो भन्या. तेसकेटाले विहा

1 A, B, C भातपानिमा.

2 A, B, C इष्टमीत्रहरूले.

3 A omits त.

4 A omits पर्न्या.

5 A omits र.

गन्याकि स्वास्त्रिले. म तेस लोभ्यासित जाँन तेस्का हातको भात पानि पनि षान भनिभन्या. छोराछोरि गर्भ रहेनछ भन्या भात पानिको पतिया पाउछ. छोरा छोरि भयाका गर्भ रद्याको रहेछ भन्या पानिको मात्रै पतिया पाउछे. आमाका पतियाले छोरा छोरि स्मेत् को पानि चल्छ. यो स्वास्त्रि पछि अरूसित. विग्रि भन्या विवाहिता लोभ्याले. जार काटन पाउदैँन. काट्यो भन्या ज्यानको बदला ज्यान हुन्छ.

३३. तागाधारि जातले भात नचलन्या कम जातका हातको वा. भाँसाछोया पछि उसै भाँसामा षिर वाहेक दाल भात जानिजानि षायेछ भन्या तेसले पतिया पाउदैँन. नदिनु. भात नचलन्या कमि जातका. हातको वा. घटि जातले छोयाका भाँसामा दाल भात षाई. भताहालाई वोरेछ भन्या. ऐन वमोजिम अंस सर्वस्व गरि जौना जातले छोयाको षायाकोछ. उसै जात्मा मिलाई दिनु. भातको पतिया पाउदैँन.

३४. उपाध्या ब्राह्मण वाहेक. अरू तागाधारि र. मतवाली जात गैहले जात मिल्दा. भताहाका कन्या ल्यायाको रहेछ भन्या. त्यो कन्या.^१ दिक्षा^२ हुन्याले^३ दिक्षामंत्र दिलाई. कन्या ल्याउन्या र. कन्या ल्याउन्याका दाज्यू भाईलाई. भात षानाको कर लाग्छ. षायानन र. अदालत ठाना अमालमा फिराद गर्न आया भन्या. अदालत ठाना अमालवाट १०। १० रूपैयाजरिवाना गर्नु तेस्ता कन्याको हातको भात षान लाउनु. जात^४ भात^५ मिल्दा. भताहाका विधवा ल्यायाका र. जारि गरि ल्यायाका. स्वास्त्रिका हातको भताहाले भात षाँन्नौ भन्या कर लाग्दैँन. अंस गर्दा ५ षंडमा स^६ ले ३ भाग षाया^७ यस्तालाई २ भाग^८ अंस दिनु.

३५. ब्राह्मण लगायेत्. तागाधारि जात र. दिक्षा लिन्या मतवालि^९ जात^{१०} गैहले^{११}. मंत्र सुन्दा आफ्ना पिता पुर्षादिषि चलि आया वमोजिम गुरूले दियाका मंत्र सुनु. जपनु. आफ्ना पुर्षादिषि चलि आयाको. मंत्र नजपि. वौध^{१२} मार्ग नास्तिक मत. झंन्ना पंन्नाको मत गैह लिन्यालाई ५० रूपैया दंड गर्नु. झन्ना पंन्नाको आफुले भात पाई. अरूलाई पनि वोन्याको रहेछ भन्या. ऐन वमोजिमको अंस सर्वस्व गरि. जनै झिकि जात पतित गराई दिनु.

1 A, B, C add लाइ.

2 C omits दिक्षा.

3 C omits हुन्याले.

4 C adds म.

5 C omits भात.

6 A, B add छ; C adds दे.

7 B षाया.

8 A षड; B, C षंड.

9 A, B, C add गैह.

10 A, B, C add ले.

11 B, C omit गैहले.

12 A, B, C बौद्ध.

३६. ब्राह्मण रजपुत तागाधारि. क्षत्रि जात गैह. गृहस्थ धर्ममा रद्याकाले मंत्र. सुंदा गृहस्थ धर्म छोड्याका संन्यासि वैरागि नानक. कान फट्टा जोगि जंगमसेवडा गैह भेषधारि सित. गुरू मानि दिक्षा मंत्र नसुनु. एस्ता भेषधारिलाई गुरू मानि दिक्ष्या मंत्र सुन्या. गृहस्तिलाई ५० रूपैया दंड गर्नु. भात स्मेत् षाई अरूलाई. वोन्याको रहेछ भन्या भातमा वोन्याका ऐन वमोजिम सजाय गर्नु. गृहस्त धर्ममा नरद्याका लोभ्याले हवस्. स्वास्त्रिले हवस्. भेषधारि सित मंत्र सुन्या वात लाग्दैँन.

३७. जनै नपाउन्या जातले जात ढाँटि ठूलो जात हुं भनि आफ्नै मुलुकमा छदा जनै लायेछ. भन्या पनि अथवा. विराना मुलुकमा गै जनैलाई आयेछ. भन्या पनि जनैलाई भात्मा वोरेछ भन्या नमासिन्या जातले भया. ऐन वमोजिम. को अंस विहा षर्च परसारि उस्को अंस सर्वस्व गरि लि जनै झिकि १ वर्ष कैद गरि छाडि दिनु. मासिन्या जात भया जनै झिकि मासि दिनु. भोरमा पन्यालाई पतिया गराई दिनु. आफ्नै मुलुकमा वसि जनै मात्रै लायेछ. भातमा कसैलाई वोन्याको रहेनछ. भन्या ६० रूपैया दंड गर्नु. विराना मुलुकमा गै. जनैलाई आयेछ. भातमा वोन्याको रहेनछ भन्या २० रूपैया दंड गर्नु. रूपैया नतिन्या मैन्हाका ५ रूपैयाका दर्ले कैद गर्नु.

३८. मुसल्मानि छेछनि. कुसल्यनि कसाहिनि. कलवानि धोविनि कुलुनि^१ गैह छोया छिटो हालनु नपन्या. पानि नचलन्या जातका स्वास्त्रिसित. करणि भन्या^२ भयाको पानि भन्या^३ षायाको रहेनछ र. तेसैले आफ्ना स्वास्त्रिसित गै जन्म्याका संतान. रद्या छन् भन्या वावुका पतियाले. शुद्ध हुन्छ.

३९. तागाधारि जात गैहका हाडमा र. नातामा करणि गराई. उसै षत्मा^४ जात पतित गरि नमासिन्या शुद्र जातमा मिलायाका मानिस्का पातकि. स्वास्त्रिका पतित भया पछि. उसै पातकि लोभ्यावाट. जन्म्याका संतानले जनै पाउदैँन. नमासिन्या शुद्र जात हुन्छ पानि चल्छ.

४०. ब्राह्मण वाहेक तागाधारि जातले जात मिल्दाका^५ कन्या विधवा स्वास्त्रिवाट जन्म्याका छोरिको गोडाधोई पानि षान हुन्छ. भात षाजा नचलन्या जातका. स्वास्त्रिवाट जन्म्याका छोरिको हात धोई पानि षान्यालाई षत लाग्दैँन गोडाको पानि षान्याहरूलाई २॥ रूपैया दंड गरि आठ आना लि. प्रायश्चित गराई दिनु. तागाधारि मतवालिका वेस्या र नमासिन्या मासिन्या गैह. पानि चलन्या जातका स्वास्त्रिवाट जन्म्याका छोरिको गोडा धोई पानि षान्यालाई. ५ रूपैया दंड गर्नु. १ रूपैया गोदान लि पतिया गराइ दिनु.

४१. उपाध्या ब्राह्मणले उपाध्याका विधवा लगायेत्. तागाधारि जातका छोरि कन्या विधवा विहा गरिल्यायाका हउन्. उसै^६ ल्यायाका^१ हउन्^२. तिन्वाट जन्म्याका छोरिको विहा गर्दा. वावु दाज्यू

1 A कुलुनि; C कुलुनी.

2 A omits भन्या.

3 C omits भन्या-

4 A, B add लोभ्या; C add लोभ्या दामल् भयाका.

5 B omits का.

6 C omits उसै.

भाई. इष्ट मित्रहरूले. दुलहा दुलहिका. हात सम्म धुनु हुन्छ. हात धोई पानि षान्यालाई. षत लाग्दैन. गोडा. धोई पानि षान्यालाई २॥ रूपैया दंड गरि ॥ गोदान लि प्रायेश्चित गराई दिनु. तागाधारि मतवालि जातका वेस्या र. नमासिन्या मासिन्या गैह पानि चलन्या. जातका स्वास्त्रि पट्टि. जन्म्याका छोरिको गोडधुई पानि षान्यालाई. ५ रूपैया दंड गर्नु १ रूपैया गोदान लि प्रायेश्चित गराइ दिनु.

४२. ब्राह्मण जातले तागाधारि लगायेत पानि चलन्या. सम्मका गैह जातका हातको टिको लाउनर^३ उनले संकल्प गरि दियाको वा. उसै दियाको सिधा दक्षिना गैह. लिन हुन्छ लिन्या दिन्या^४ गैहलाई वात लाग्दैन. पानि नचलन्या जात र. छोया छिटो हालनु पर्न्या जात गैहका हातको टिको लाउन र. संकल्प गरि वा. पानि पारि दियाको सिधा दक्षिना गैह. केहि लिन हुँदैन. यस्तो लिन्यालाई विगो समेत. जफत गरि २० रूपैया दंड गर्नु. रूपैया नतिन्या ऐन वमोजिम कैद गर्नु. पानि नचलन्या गैह जातले. संकल्प नगरि दियाको र. पानि नपन्याको चोषो अन्न. दक्षिना जगा जमिन. ज्यू गैह चोषो कुरो. लिन्या र. दिन्यालाई षत वात लाग्दैन.

४३. पानि चलन्या जात गैहले पानि नचलन्या अछुति जातका. हातको टिको लायो भन्या टिका लाईदिन्या र. टिका लाईमाय्या दुवैलाई^५ ५। ५ रूपैया दंड गर्नु. टिको लाईमाय्या उपल्लो जातलाई ॥. गोदान ली पतिया गराई दिनु.

४४. उपाध्या भनि जात छपाई. अर्कालाई गोडाको पानि षुवाउन्या जैसिलाई ६ मैन्हा अरू जातलाई १८ मैन्हा कैद गर्नु. यस्तालाई म्यादका रूपैया दिया पनि कैद नपुन्याई नछाडनु. डवल दिया लि छाडि दिनु.

४५. उपाध्या भनि जात छपाई. टिकालाई पुजाउन्या जैसिलाई ४ मैन्हा अरू जातलाई १२ मैन्हा कैद गर्नु म्यादका रूपैया दिया ऐन वमोजिम^६ लि छाडि दिनु.

४६. तागाधारि जात गैह कसैले भान्सामा पकायाको. भात गैह व्याहान पकायाको रात पन्या पछि हवस्. राति पकायाको उज्यालो भया पछि हवस्. वा पकाउन्याले भान्सा कुहाको हवस् वा^७ छोड्याको^८ हवस्^१. त्यो भांसा भात नचलन्या. अरू कसैले छोयाको रहेनछ. भन्या भात षान्यालाई. पतिया पनि पर्दैन दंड पनि हुँदैन. जातैमा रहन्छ.

1 C omits ल्यायाका.

2 C omits हुनु.

3 A B, C लगाउनर.

4 A omits दिन्या.

5 A, B, C दुवैजनालाई.

6 A, C वमोजिमका रूपैया.

7 B adds नहवस्.

8 B omits छोड्याको

४७. गोठमा पकाई ल्यायाको र. वासि षिर छोयो. षान नहुन्या जात गैहलाई^२. छुवाई आफ्ना मिल्दा जातले अलग पकाया ल्याया राष्याको. षान्यालाई पतिया पनी पर्दैन. दंड पनि हुँदैन. जातैमा रहन्छ.

४८. तागाधारि जात गैहले छोयाको आफुले षान हुन्या जातले छाला वाहेक लवेदा सुरूवाल लगाई. पकायाको भात षाया. पनि आफुले छाला. वाहेक लवेदा सुरूवाल लगाई. षायो भन्या पनि. पकाउन्या षान्यालाई. पतिया^३ पर्दैन दंड पनि हुँदैन जातैमा रहन्छ.

४९. सम्बत् १९१७ साल पौष सुदि १ रोज ७ मा भयाको^४ गोर्षा भरमुलुक मध्येस जिल्ला मोरंमा रहन्या. मेच्या जातले भैस सुगुर कुषुरा. षान्या हुनाले. मोगलानियाहरूले पानि षादा रहयानछन्. र. हाम्रा मुलुकमा पनि मेच्या जातको पानि षादा. रहयानछन्. अव इ मेच्या जातको. पानि चलन सकछ कि सवदैन् भनि भारादारि कौसलहुदा. हाम्रा मुलुकमा भैस सुगुर कुषुरा. गाई हातिको मासु षान्या. नेवार मगर गुरू भोट्या लापच्याका हातको पानि. हाम्रा मुलुकमा चल्याको छ इ मेच्या जातको. ता अधि पनि चल्याको रहेछ. इनको छोराछोरि कमारा कमारि. भै दर्वारसम्म पनि. अधि पुग्याका रहया छन्. इनहरूले. पानि नचलन्या अछुति जातका हातको र मुसलमान जातका हातको पानि पनि षादा रहयान छन्. देउता सिव मान्दा रहयान इनहरू. सिव मार्गि. जात रहयाछन् भन्या^५ इन्का हातको पानि चल्छ. भन्या भारादारि. कौसलले ठहराउदा. आज देशि. मेच्या जातका हातको पानि चल्याकोछ. पर्वत्या थारू जातमा. जस्ले इ^६ मेच्या जातको पानि षादैन् तेस्लाई ५ रूपैया दंडगर्नु. रूपैया नतिन्या ऐन वमोजिम कैद गर्नु.

५०. अव उप्रान्त तागाधारि षस जातलाई क्षत्रि^७ जात भन्या इलकाप वक्सी यो कागजपत्र हरूमा लेषनु पर्दा पैल्हे नाउ लेषि. उन्को थर लेषनु. वाहा पछि क्षत्रि भन्या इलकाप लेषनु.

५१. वेहक्मा मानिसको ज्यान माय्या वावत् दामल हुनु पर्न्या स्वास्त्रिमानिस र नकाटिन्या जातका लोभ्यामानिसलाई फलानाले फलानाको ज्यान माय्या कोछ भन्या कुरो अदालत ठाना अमाल कचहरिमा परि कायेल भै पानि वाहेक मात्र भयाको रहयाछन्. अक्षर षोदीयाका रहेनछ. तेस्तालाई पतिया गराई दिन्या अदालत ठानाका^८ हाकिम अडा^९ गौडाका भारादार डिठ्ठा विचारि अमालि

1 B omits हवस्.

2 B adds न.

3 A, B add पनि.

4 A, B omit सम्बत् to भयाको.

5 A, B add पछि.

6 B omits इ.

7 A adds य.

8 A omits ठानाका; B ठानाअमालका.

9 A omits अडा.

द्वान्या मुषिया. जिम्मावाल पतिया दिन्या धर्माधिकार. जो हो उसलाई. आफुले. तेस्ताका हातको भात पानि षायाको रहेन्छ. भन्या ५० रूपैया दंड गरि छाडि दिनु. आफुले. पानिमात्र षायाको रहेछ भन्या. ६० रूपैया दंड गरि पानिको पतिया दिनु. आफुले भात. षायाको रहेछ भन्या. ५० रूपैया दंड गरि. जनै हुन्याको जनै झिकि जनै नहुन्या जातलाई. तेसै जात पतित गरि छोडि दिनु. आफुले भात षाई. अरू भताहालाई. भात्मा वोरैछ भन्या. ऐन वमोजिमको¹ अस सर्वस्व गरि. जनै हुन्या जातको जनै झिकि. जनै नहुन्या जातलाई. तेसै जात पतित गरि छाडि दिनु. कचहरिमा वस्या मानिसहरूलाई. तेस्ताका हातको भात पानि. जानिजानि². षायाका रद्याछन्. भन्या हाकिमले चलाउदा. षायाको हुनाले भात षायाको रहेछ भन्या ३० रूपैया³ पानि षायाको रहेछ भन्या २० रूपैया दंड गरि भात पानिको पतिया गराई दिनु. हाकिमले पतिया नदि जानिजानि आफु आफुले मात्रै⁴ पिनि षायाको रहेछ भन्या. षान्यामा मुष्य जो हो. उसलाई⁵ ५० रूपैया अरूलाई २० रूपैया दंड गरि पानिकी पतिया दिनु. भात षायाका रद्या छन् भन्या मुष्य जो हो उसलाई⁶ ५० रूपैया दंड गरि. जनै हुन्याको जनै झिकि. जनै नहुन्या जातलाई. तेसै जात पतित गरि छोडि दिनु. आफुले लेषाई. अरूलाई भात पानिमा वोरैछ भन्या. ऐन वमोजिमको सर्वस्व गरि. जनै हुन्याको⁷ जनै⁸ झिकि जनै नहुन्यालाई⁹. तेसै जात पतित गरि छाडि दिनु. अरूले जानिजानि¹⁰ षायाको रहेछ भन्या. मुष्यको सजाय भया पछि. अरूको जात जादैन ३० रूपैया दंड गरि भातको पतिया गराई दिनु. भोरमा भात पानि षान्याहरूलाई. भात पानिको पतिया गराई दिनु. दामल हुनु पर्न्या मानिस पक्रिया पछि ऐन वमोजिम दामल गरि दिनु.

५२. कसैले कसैलाई. जात भात जान्या कुरो. पोल्यावाट लाग्र्या मानिस कायेल भयाको थियेन. तेस्तैमा. कायल नहुन्याका हातको. भात पानि कसैले षायेछ र. पछिवाट उहि पोल्याका कुरामा कायेल भयो भन्या. कायेल भयाको छैन भनि कायेलनामा नहुदै. षायाको हुनाले भात षान्यालाई. ३० रूपैया पानि षान्यालाई १० रूपैया दंड गरि. पतिया गराई दिनु.

५३. मुडिन्या तक्सीर गरि. मुडि भात पानि वाहेक भयाका कसैले धर्माधिकारको पतिया ढाटि लीफा चोरि. कित्या विहोरा गन्याको पतिया देषाउदा. थाह नपाई त्यो पतिया सद्य होला भन्या ठहराई तेहि. पतिया देषता कसैले भात पानि षाया छन् भन्या. पतिया देषि वेहोरा नवुझि. षायाको ठहर्नाले

1 A omits को.

2 A omits जानि.

3 B omits रूपैया.

4 A omits मात्रै.

5 A omits उसलाई.

6 A omits उसलाई.

7 A हुन्याजातको.

8 B जन.

9 A नहुन्याजातलाई.

10 A adds भत; B adds भात.

जात जादैन. भात वाहेक. हुन्याका हातको भात षायेछ भन्या २० रूपैया^१. पानि वाहेक हुन्याका हातको पानि षायेछ भन्या १० रूपैया दंड गरि पतिया गराई दिनु.

५४. १२ वर्ष मनिका कर्मचल्याका तागाधारि. गैहका लोभ्या स्वास्नि मानिस कसैले जात जान्या अभक्ष षाया वावत् भात वाहेक भै रह्याका जाया जन्मसमेत भयाका कोहि पतिया नभै मरेछ र. कृया शुद्धको पतिया गरि. काजकृया गन्याको रहेछ. पछि तिन्का संतान हुउन् वा. उन्का. अरू आपस्त कोहि आई. फलानाकोता १२ वर्ष मनिका उमेरमा जात जान्या. फलानु कुरो षांदा भात वाहेक भयाका हुन्. पतिया हुन नपाउदै. मा^२ मर्न जांदा कृया शुद्धको पतिया गराई काजकृया भयाको. हो यतिका विहोरामा इन्का छोराछोरि. को जात जान्या होईन. भात चलन्या हो भनि कराउन आया. यो कुरो जांन्या तिन्का भताहा भलामानिस. अमालिहरूले पनि इन्का वावु आमाले. १२ वर्ष मनिका वालषैका उमेरमा. षाया को हो. १२ वर्ष नाघ्या पछि षायाको होइन भनि. मुचुल्का लेषि दिया भन्या. मुचुल्कालि. ति वालषहरूलाई. आमा वावुको कृया शुद्ध. को पतिया भया पछि पतिया गर्नु पर्दैन जात विसेषको व्रतबंध विवाह. आदि कर्मले शुद्ध हुन्छन्. यस्ताको जात जादैन भात चल्छ.

५५. अडा गौडा अदालत ठाना अमालका हाकिम डिट्टा विचारि अमालि द्वाज्याले तागाधारि. लगायेत् पानि चलन्या सम्मका चोषा जात कसैले. पानि नचलन्या छोया छिटो हालनु पर्न्या. गैह जातका हातको. भात पानि षायाका र. करणि गराया वावत्. अधिका हाकिमले पानि नचलन्या ठहराई. पानि वाहेक गन्याकालाई. जाल साज गरि वा. अधिका कायेल नामा जमानवंदी. दवाई एस्को. पानि चलन्या रहेछ भन्या झुट्टा कुराको लाल मोहोर दर्खत्. पतिया चिट्ठि पुर्जि गराई. हवस वा मैले. सनद गरायाको छ. मैले साधक गन्याको छ भनी. सर्कार नसाधि. उसै पानि चलायाको रहेछ र. पछि कुरो बुझदा अधि कायेलनामा जमानवंदि गराउन्या हाकिम गैहले गरायाको कुरो सदर ठहर्न्यो पानि नचलन्यै ठहर्न्यो भन्या. पानि चलाउन्यामा. कचहरिका हाकिम. द्वाज्या जो हो उस्ले उसैका हातको. पानि आफुले षायाको रहेनछ भन्या जात जादैन. ५०० रूपैया मात्र^३ दंड^४ गरि छाडि दिनु. पानि चलाई आफुले स्मेत् उसैका हातको. पानि षायाको भन्या ५०० रूपैया दंड गरि जनै हुन्या जातको जनै झिकि. जनै नहुन्या जातलाई. तेसै भात पानि वाहेक गरि छाडि दिनु दंडका रूपैया नतिज्या मैन्हाका ५ रूपैयाका दर्लै कट्टि नहुज्याल. कैद गर्नु. पानि चलाउन्या हाकिमले. उसैका हातको. पानि षायाको रहेनछ. अरूका संसर्गवाट षायाको. ठहर्न्यो भन्या जात जादैन. पतिया दिनु.

५६. यो दामल भयाको हो. पानि नचलन्या. जातका हातको. पानि घुवाई जात वाहेक. गन्याको हो. पानि नचलन्या जातका हातको भात पानि षान्या र. करणि गन्या गराउन्या हो भनि. जानिजानि

1 B omits रूपैया.

2 B omits मा.

3 B omits मात्र.

4 B adds मात्रै.

तेस्ताका हातको. भात पानि षान्या जो हो उसैले. आफ्ना हातवाट अरूलाई. स्मेत् वोरेछ भन्या. ऐन बमोजिम अंस सर्वस्व गरि. अरूलाई बोच्याको नभया. सर्वस्व नगरि. उसै जात्मा मिलाई छाडि दिनु. यस्ताका हातको भोरमा भात पानि षान्या भताहा दुनिटालाई भोरको पतिया दिनु दंड पर्दैन् दामल पक्रिया पछि दामलै गरि दिनु.

५७. यो दामल भयाको हो पानि नचलन्त्या जातका हातको पानि षुवाँई जात वाहेक गन्याको हो पानि नचलन्त्या जातका हातको भात पानि षान्या र. करणि गन्या गराउन्त्या हो भनि जानिजानि पुर्जि पतिया गरि दिन्या. हाकिम अमाली धर्माधिकार जो हो. उसले पुर्जि पतिया गरि. गराईमात्र दियेछ. आफुले भन्या तेस्का हातको भात पानि. षायाको रहेनछ भन्या. जात जादैन्. ५०० रूपैया दंड गरि छाडि दिनु. आफुले पुर्जि पतिया गरि गराई दि. आफुले स्मेत् तेस्ताका हातको. भात पानि षाई. अरूलाई स्मेत् वोरेछ. भन्या ऐन बमोजिम. सर्वस्व गरि. अरूलाई बोच्याको रहेनछ. भन्या सर्वस्व नगरि उसै जात्मा मिलाई छाडिदिनु. यस्ताका हातको भोरमा भात पानि षान्या भताहा दुनिजालाई. भोरको पतिया गराई दिनु. दंड पर्दैन् दामल पक्रिया पछि दामलै गरि दिनु.

५८. यो दामल भयाको हो भनि^१. पानि नचलन्त्या जातका हातको पानि षुवाई. जात वाहेक गन्याको हो पानि नचलन्त्या जातका हातको भात पानि षान्या करणि गन्या गराउन्त्या. हो यस्ताका हातको भात पानि षाया जातजाँछ. भनि थाहा नपाई कसैले. भात पानि षायेछ भन्या. थाहा नपाई षान्या भोर ठहर्छ तेस्तालाई. भोरको पतिया गराई दिनु. दंड पर्दैन्. भोर पारि झुक्वाई. आफ्ना हातवाट. अर्कालाई भात पानि षुवाउन्त्या दामल पक्रिया पछि दामलै गरि दिनु.

५९. पानि नचलन्त्या छिटो हालनु नपन्याजातका. स्वास्त्रिको जानिजानि करणि गरि भात पानि षान्या वा. उसै जानिजानि भात पानि. मात्रै षान्या लोभ्या. मानिसले आफुले^२ करणि स्मेत्^३ गरि वा. उसै भात पानि षायाको जाहेर नगरि अरू आफ्ना विवाहिता वा. ल्याईता वेस्या गैह. स्वास्त्रिको करणि गरेछ वा. आफ्ना हातको भात पानि षुवायेछ र. पानि नचलन्त्या एस्ता. जातको लोभ्याले करणि गरि वा. उसै भात पानि षायाको थाहा नपाई. भोर्मा आफ्ना लोभ्यालाई करणि दिन्या वा भात पानि षान्या स्वास्त्रिको गर्भ रह्याको रहेनछ भन्या. भात पानिको पतिया गराई दिनु. जात जादैन् गर्भ रह्याको रहेछ भन्या भात चल्दैन्. पानिको मात्रै पतिया दिनु. तेस्वाट पछि जन्म्याका संतानका हातको पानि पानि मात्रै चल्छ. भात चल्दैन्. येस्ता. ब्राह्मण लगायेत् तागाधारि. जात्का संतानले. जनै पाउदैन्. नमासिन्या शुद्र जात हुँछन्. नमासिन्या मतवालि जातका संतान. मासिन्या मतवालि जात हुँछन्. मासिन्या मतवालि जातका संतान उस भन्दा कम मासिन्या जात हुँछन्. आफ्ना लोभ्याले. यस्ताको करणि स्मेत् गरि वा. उसै भात पानि षायाको छ भन्या. कुरो थाहा पाई. आफुले उस्का हातको. भात पानि करणि वचाई लाज सर्मेलेमात्र. कुरो जाहेर गर्न नसकि. दवाई भोर्मा पन्या. अरू भताहा. भात पानिमा वोरियाका. रह्याछन् भन्या. आफुले कुरो

1 B omits भनि.

2 B adds समेत.

3 B omits स्मेत्.

थाहा पायापछि दुनिया भातपानिमा पन्या कुरो दवाया वापत् स्वास्त्रीलाई २५ रूपैया दंड गरि. भोर्मा पन्यालाई. भोर्को पतिया गराई दिनु.

६०. तागाधारि लगायेत्. पानि चलन्यासम्मका चोषाजात्कसैले पानि नचलन्या र. छोया छिटो हालनु पन्या जात र. इनै जात्मा करणि. गरि गराई. भात पानि षाई जात वाहेक भै रखाका मानिस्का हातको जानिजानि भात पानि षायाको वा करणि गरि गरायाको कुरो उठी कायेलनामा जमानवंदि. भै भात पानि वाहेक भयाका हुउन्. वा. कुरो उठी. कायेलनामा जमानवंदि. हुन नपाई. हामिले फलाना लाई करणि गन्या गरायाकोछ. एस्ताका हातको भात पानि षायाको छ भनि आफ्ना मुषले कायेल भै. भात पानि वाहेक भयाका^१ लोभ्या स्वास्त्रि मानिस जो हुन्. उस्ताई उसै ठाउका हुउन् वा. इ भात पानि वाहेक भयाका छन्. भनि थाहा पाउन्या अंत जगाका आयाका. हुउन्. येस्ता हाकिम डिठ्ठा विचारि. अमालिद्वारा ठेकदार. इजारादार. थरि मुषिया जिम्मावाल मिझाज्या गौरू ज्येठा वुढा चौधरि मुकदम. थानि थरि भला मानिसहरू. मा कसैले अधि भयाका कायेल नामा जमानवंदि. नहेरि वा. कायेल मात्र भै भात पानिवाट वाहेक भै रखाको वीहोरा नबुझि. निच मारि वा. मायामोलाहिजा पछि लागि^२ वा. जाल साज गरि^३. अधि भयाका. जमानवंदि कायेलनामा दवाई वा. झुट्टा कुराको लालमोहोर. दस्पत. पतिया चिठ्ठि पुर्जि गरि गराई. वा मैले सहि सनद गराई. त्यायाको छु. भनि. वा. साधक गरि आयाको छु भनि सर्कार नसाधि वा. भोर हो भन्या गराई पुर्जि पतिया गरि गराई भात पानि चलायाको रहेछ. र. पछि कुरो उठि. कचहरिमा परि बुझदा. अधि भयाका जमानवंदि. कायलनामा सदर ठहर्न्यो वा. आफु मुष कायेल भै. भात पानि वाहेक भै रखाको कुरो सदर ठहर्न्यो. भात पानि नचलन्यै ठहर्न्यो भन्या पछि. भात पानि चलाउन्यामा पैल्हे चलाउन्यामा मोष्य. अषत्यार जो हुं. भात पानि चलाई. आफुले स्मेत. एस्ताका हातको र. एस्ताका हातको षान्याका हातको भात पानि जानिजानि षाई. आफ्ना हातवाट. घरका जहानलाई र. अरू. भताहालाई वोरेछ भन्या. ऐन वमोजि^४ सर्वस्व गरी जनै हुन्याको जनै झिकि जनै नहुन्याजातलाई त्यसै भात पानि वाहेक गरि. उसै जातको १ अक्षर षोडि उसै जात्मा मिलाई छाडि दिनु. आफुले मात्र षायेछ घरका जहानलाई. र भताहालाई वोर्न्याको रहेनछ भन्या. अक्षर षोदनु सर्वस्व गर्नु पर्दैन. जनै हुन्याको जनै झिकि जनै नहुन्या जातलाई. तेसै उसै जात्मा मिलाई छाडि दिनु. एस्ताका हातको र. एस्ताका हातको षान्याका हातको. भात पानि जानिजानि षायाको रहेनछ भन्या जनहि. ५०० रूपैया दंड गर्नु. जात जादैन. दुनिजा भात पानिमा पन्या कुरामा अधिका हाकिम अमालिले^५ चलायाठ्या^६ तापनि आफुले सुन्या जान्या पछि. पक्रि जस्ताको तस्तो निसाफ गरि. भात पानि वाहेक गर्नु पन्या कुरामा निच मारि माया मोलाहिजा पछि लागि एकै मुद्दाका एस्तै अरूलाई पछिवाट भात पानि चलाउन्या आमलि हाकिम. जो हुं उनलाई. अधिका हाकिम अमालिले चलायाको हुनाले. पछि भात पानि चलाई. भात पानिमा पन्या. जति जनाछन्.

1 B नरखाका.

2 B omits लागि.

3 B adds वा.

4 B adds अंस.

5 B अमालिहरूले.

6 B—थ्या.

उनलाई जनहि २५० रूपैया दंड गरि पातिया दिनु, जात जादैन हाकिम अमालिहरूले, चलायाथ्या तापनि एस्ताका हातको, भात पानि चल्दैन भन्नु पर्न्या, मा हाकिं अमालिको पुर्जि पतिया भया पछि, अधि भात पानि चल्याको थियेन, तापनि, हाकिमलाई क्या होला भन्या ठहराई, इन्को भात पानि चल्छ, भनि जमानवदि लेषन्या, षान्या, एस्ताको, भात पानि चल्छ भनि जमानवदि लेषि, उसै भात पानि चलाउन्या, षान्या अरू थरि मुषिया, जिम्मावाल भला मानिस, गैह कचहरिमा वस्याहरूलाई, पतिया पुर्जि देषी इन्का हातको वा, इन्का हातको षान्याका हातको भात पानि षायाकामा जात जादैन, मुषिया जिम्मावाल थरि मिझाज्या गौरू ज्येठा बुढा चौधरि, महतौ ठेकदार, इजारादार थानि थरिहरूमा, भात पानि चल्छ भनि जमानवदि लेषि सहि हालन्यालाई जनहि १०० रूपैया भात पानि चल्छ भनि, मुषलेमात्र भनि, चलाया छन, सहि हालन्याका रद्या नछन्भन्या, जनहि, ५० रूपैया दंड गर्नु, मुषले मात्र भात पानि चल्छ, भन्या जमानवदि लेषन्या, हरूलाई जनहि १० रूपैया दंड गरि भात पानिको पतिया दिनु, जात जादैन, भात पानि संवंधका कुरामा जाल साज गरि, एस्ताका हातको भात पानि चल्छ भनि, कागज लेषि, सहि हालन्याका रद्या छन, भात पानि चलनपायाको रहेनछ, तेस्तैमा जहेर भयो भन्या कागज लेषाउन्यालाई १०० रूपैया कागज लेषी दिन्यालाई ५० रूपैया अरू कचहरिमा वस्यालाई जनहि १० रूपैया दंड गर्नु, विहोरा नवुझि भोरमा गरि भात पानि षान्यालाई भोरको पतिया, दिनु, दंड पर्दैन, दंड नतिन्यालाई, ऐन वमोजिमकैद गर्नु.

६१. तागाधारि लगायेत्, पानि चलन्यासम्मका चोषा जात कसैले पानि नचलन्या र छिटो हालनु पर्न्या जात र, इनै जात्मा करणि गरि गराई, भात पानि षाई^१ वा, करणि गरि गरायाको कुरो उठि, कायेलनामा जमानवदि भै, भात पानि वाहेक भयाका हउन् वा, कुरो उठि कायेलनामा जमानवदि, हुन नपाई हामिले फलानालाई करणि गरि गरायाको छ, वा यस्ताका हातको, भात पानि षायाको छ, भनि आफ्ना मुषले, कायेल भै भात पानि वाहेक भै, रद्याका लोभ्या स्वास्नि मानिस कसैको उसै ठाउका हउन् वा, भात पानि वाहेक भयाका हुन्, भनि थाहा पाउन्या अंतका, आयाका हउन्, येस्ता हाकिम डिठा विचारि, अमालि द्वाज्या ठेकदार इजारादार, थरि मुषिया जिम्मावाल, मीझाज्या गौरू^२ चौधरि, मुकदम्, थानि थरि, भला मानिसहरू कसैले अधि भयाका कायेलनामा जमानवदि, नहेरि वा, कायेलनामा^३ मात्र भै भात पानि वाहेक भै रद्याको विहोरा नवुझि घुस रोस्वत षाई भोर हो भन्या, गराई पुर्जि पतिया गरि, गराई, भात पानि चलायाको रहेछ र, पछि कुरो बुझ्दा, अधिको जमानवदि कायेलनामा सदर ठहर्न्यो वा, आफुमुष कायल भै भात पानि, वाहेक भै रद्याको कुरो सदर ठहर्न्यो, भात पानि नचल्न्यै ठहर्न्यो भन्या, पछि घुस षाई, भात पानि चलाउन्यामा, पैहे चलाउन्या मोष्य जो जो हुन् उनलाई, भात पानि चलाई, आफुले स्मेत् एस्ताको हातको र, एस्ताका हातको षान्याका हातको भात पानि जानि जानि षाई आफ्ना हातवाट, घर्का जहानलाई र, अरू भताहालाई स्मेत् वोरेछ भन्या घुस्को, विगो जफत गरि, ऐन वमोजिम अंस सर्वस्व गरि, जनै हुन्या को जनै झिकि जनै नहुन्यालाई, तेसै भात पानि वाहेक गरि, उसै जातको १ अक्षर, वाजा गालामा

1 B adds जात वाहेक भैरद्याका मानिस्का हातको जानि जानि भात पानि षायाको.
2 B गौरू.
3 B omits नामा.

षोदि उसै जात्मा मिलाई छाडि दिनु, आफुले मात्रै षायेछ, घरका जहानलाई र, अरूलाई भात पानिमा बोज्याको रहेनछ, भन्या अक्षर षोदनु पर्दैन, सर्वस्व पनि हुँदैन, घुस्को विगो मात्र जफत, गरि जनै हुन्याको जनै झिकि जनै नहुन्या जातलाई तेसै, उसै जात्मा मिलाई छाडि दिनु, आफुले एस्ताका हातको र, एस्ताका हातको षान्याका हातको, भात पानि षायाको रहेनछ भन्या, घुस्को विगो जफत गरि जनहि ५०० रूपैया दंडगर्नु, जात जादैन, दुनिया भात पानिमा^१ पर्न्या कुरामा अगी अमालिहरूले चलायाथ्या तापनि, आफुले सुन्या जान्यापछि, पक्रि जस्ताको तस्तो निसाफ गरि, भात पानि वाहेक गर्नु पर्न्या, कुरामा नीचमारि माया मोलाहिजा पछि लागि घुस षाई, यकै मुहाका येसै अरूलाई पछिवाट, भात पानि चलाउन्या, अमालि हाकिम जो हुन् उन्हेहरूलाई, अधिका हाकिम अमालिले चलायाको हुनाले पछि वाट भात पानि चलाई, भात पानिमा पर्न्या जति जना छन, उनलाई घुस्को विगो जफत गरि, २५० रूपैया दंड गरि पतिया दिनु, जात जादैन, हाकिम अमालिले चलायाथ्या तापनि, एस्ताको भात पानि चल्दैन, भन्नु पर्न्यामा अधि भात पानि चल्याको थियेन तापनि, हाकिम अमालिको पुर्जि^२ पतिया^३ भया पछि हामीलाई क्या होला भन्या ठहराई इको भात पानि चल्छ भनि जमानवदि लेषन्या, षान्या वा, येस्ताको भात पानि चल्छ भनि जमानवदि नलेषि उसै भात पानि चलाउन्या, षान्या अरू थरि मुषिया, भला मानिस गैह, कचहरिमा वस्याहरूलाई, पतिया पुर्जि देषी इन्का हातको वा इन्का हातको षान्याका हातको भात पानि षायाकामा जात जादैन, मुषिया जिम्मावाल थरि, मिझाज्या गौरू चौधरि महतौ, ठेकदार इजारादार, थानि थरिहरूमा भात पानि चल्छ भनि, जमानवदि लेषि सहि हालन्यालाई घुस्को विगो जफत गरि^४ १०० रूपैया भात पानि चल्छ भनी, मुषले मात्र भनि चलाया छन, जमानवदि लेष्याको रहेनछ, भन्या घुस्को विगो जफत गरि, जनहि ५० रूपैया दंड गर्नु, कचहरिमा वस्याका, अरू मानिस्मा भात पानि चल्छ भनी जमानवदि लेषि सहि हालन्याहरूलाई, घुस्को विगो जफत गरि जनहि २५ रूपैया दंड गरि, भात पानिको पतिया दिनु, जात जादैन, भात पानि संवंधका कुरामा जालसाज गरि, घुस रोसवत^५ षाई येस्ताका हातको भात पानिचल्छ भनि कागज पत्र लेषि सहि हलाई सक्काको रहेछ, भात पानि चलन पायाको रहेनछ, र, तेस्मा जाहेर भयो भन्या घुस षाई कागज लेषाउन्या^६ मुष्य जो हो उस्लाई, घुस्को विगो जफत गरि, १०० रूपैया, घुस षाई कागज लेषि दिन्यालाई, घुस्को विगो जफत गरि ५० रूपैया दंड गर्नु, कचहरिमा वस्या अरूलाई घुस्को विगो जफत गरि जनहि १० रूपैया दंड गर्नु, विहोरा चालनपाई भोर्मा परि, भात पानि षान्याहरूलाई, दंड पर्दैन भोरको पतिया दिनु.

६२. तागाधारि लगायेत् चार वर्ण छत्तिसै जात गैहका, स्वास्नि मानिस्कोहि आफुभंदा घटि वडि जात, आफु मिल्दा जात, पानि नचलन्या जात, छिटो हालनु पर्न्या जातसित करणिमा विग्र्या भनि मुषले, भनि भन्या, रोवकार गर्दा, करणि ठहरेन भन्या पनि वात लायाको मानिस्कायेलनभै

1 B omits मा.
2 B omits पुर्जि.
3 B adds पुर्जि.
4 B adds जनहि.
5 B omits रोसवत.
6 B adds मा.

मन्याको. रहेछ भन्या. पनि कचहरिमा फलानासित करणिमा विग्र्या भनि मुषले वकि कयेलनामा¹ जमानवंदि² स्मेत् लेषि दि भन्या. त्यो स्वास्नि मुष पतितका ऐन वमोजिं मुष पतित ठहर्छे एस्ताका हातको. कचहरिमा कुरो नपर्दै. सम्ममा षान्या. भताहालाई. पतिया गर्नु पर्दै. जातैमा रहन्छन्. अदालत् अमाल कचहरि. मा कुरा परि जमानवंदि कायेलनामा भयापछि एस्ता स्वास्निका हातको जानि जानि भात पानि षान्याले पतिया पाउदैन्, उहि जात हुन्छन्, भोरमा षान्यालाई भोरको पतिया दिनु.

६३. भात पानिमा पर्न्या. कुरामा कायेल मुकायेल भयाका मानिस्का हातको कसैले भात पानि षायाको रहेछ विराव गन्या पतिया गरि भात पानिमा चलन्या रहेछ भन्या कारणिले पतिया पाउन्या हुनाले. एस्ताका हातको जानि जानि भात षान्यालाई ३० पानि षान्यालाई १० रूपैया दंड गरि भात पानिको पतिया गराई दिनु. विराव गन्याले पतिया पाउन्या रहेनछ भन्या. एस्ताका हातको. जानि जानि षान्याले पतिया पाउदैन्. उसै जात्मा मिलाई छाडि दिनु. थाहा नपाई भोर्मा षायाको भया भोर्को पतिया गराई दिनु. दंड पर्दैन्.

६४. कोहि लोभ्या स्वास्नि. मानिसले पानि नचलन्या जातसित जानि जानि करणि गन्या गरायाको. र. इनै जात्का हातको जानि जानि. भात पानि षायाको कुरा जाहेर. भै जात वाहेक गराई. भोरमा पर्न्यालाई. ऐन वमोजिम प्रायश्चित भै सकिया पछि मोलाहिजा पछि लागि. तीनै भात पानि वाहेक भयाका मानिस्को. भात पानि चलाउन्याको मद्दत गरि भात पानि चलाई. आफुले स्मेत्. उस्का हातको षायेछ भन्या. भात पानि चलाउन्या³ मोष्यलाई ५०० रूपैया दंड गरि जनै हुन्याको जनै झिकि जनै नहुन्यालाई. तेसै जात वाहेक गरि उसै जातमा मिलाई छाडि दिनु. आफुले षायाको रहेनछ. अरूलाई मात्रै वोराएछ भन्या ५०० रूपैया मात्रै दंड गर्नु. जात जादैन्. हाकिम अमालिले चलाया पछि. हामिले एस्का हातको षान हुन्या रहेछ. भनि विहोरा चालनपाई. षायाको भया दंड पर्दैन् भोरको पतिया दिनु. जमानवंदि कायेलनामा. गराई सहि स्मेत् हलाई सक्याको रहेछ भात पानि चलन पायाको रहेनछ. भन्या मोलाहिजा पछि लागि एस्तो भात पानि चलाउनाको. आसय गन्या हाकिम अमालिलाई नजहि १०० रूपैया तेस कचहरिमा वरुन्या थरि मुषिया. जिम्मावाल्हरूलाई जनहि २५ रूपैया अरू भला मानिसलाई. जनहि २० रूपैया दंड गर्नु. अमालिले जमानवंदि मुचुल्का कागज पत्र मात्र गराई लियाका. भात पानि नचलल्याका मा यस्का भात पानि चलन्यै रहेछ भनि तहकित नवुझि. भात पानि षान्या अरू दुनिजालाई जनहि. १० रूपैया दंड गरि ऐन वमोजिम पतिया दिनु. दंडका रूपैया नतिन्या. ऐन वमोजिम कैद गर्नु.

६५. अक्षर षोदियाका हउन्. नषोदियाका हवन्. दामल भयाका मानिस्का हातको कसैले. टिका लायो वा. पानि पारि संकल्प गरि. दियाको सिधा दक्षिना. गैह लिन्यालाई. लियाको विगो जफत

1 B omits कयेलनामा.

2 B adds कायेलनामा.

3 B adds मा.

गरि लि. २० रूपैया दंड गरि ।¹ लि पतिया² दिनु. संकल्प नगरि वा पानि नपारि. दियाको चोषो. अनं दक्षिना. ज्यू जमिन् गैह दियाको लिन्यालाई वात लाग्दैन.

६६. चार वर्ष छतिसै जात्का स्वास्नि मानिस हाड नातामा र नाता केहि नलाग्या आफु भन्दा उपल्ला आफु मिल्दा आफु भन्दा घटि³ जात्मा करणि मा विप्रि भन्त्या वात लागि. अडा अदालत ठाना अमालमा पक्रि आयाका स्वास्नि मानिसलाई कचहरिवाट पारषेर गर्दा मेरो पैहो करणि गन्या. फलानु हो भनिछ र. उस्ले पोल्याकालाई. पक्रि ल्याई रोवकार गर्दा कायेल भयो भन्त्या. ऐन बमोजिम गर्नु देश परदेश टाढा गयाकालाई भनिछ भन्त्या आफ्ना मुलुकमा भया दस्षत् पुर्जि चिट्ठि⁴ मानिस पठाई झिकाई निसाफ गर्नु. आफ्ना मुलुकमा रहेनछ उस्का दाजू भाई नाता गैह. कसैले आई. फलाना सित फलाना जगामा. भेट भयोथ्यो. तलाई फलानि स्वास्नि. ले मेरो, पैहो करणि लिन्या फलानु हो भनि. तेरो नाउलेषाई रहिछ. तेरो करणि छैन भन्त्या जोरिन हिड् करणि हो भन्त्या. सोहि कुरो भन र. तेरो नाउको. ऐन बमोजिम. पतिया गछौं भनि. हामिले भन्दा तेससित मेरो. करणि भयाको साचोहो. स्वास्निले पनि मलाई. पैहो भनि लेषाई भन्त्या. करणि भयाको छैन. भनि. म. तेससित जोरिन जान सक्तिन. मेरो घरद्वार. उहि छ. ऐन बमोजिम. जो हुनु पर्न्या. वीहोरा गरि. हामिले भोर पारि. षुवाउदा षान्या जो जो छौ मेरो नाउको पतिया गर. म भन्त्या वहा जान भनि भन्यो. हामिले यो कुरा साछि राषि सोध्याको छ वा. कागज लेषाई लियाको. छ. यो कुरो उस्ले भन्त्याको ठहरेन. झुटो कुरो कल्पि भन आयाको ठहर्न्यो भन्त्या. ऐन बमोजिम लाग्याको तक्सीर. हामि बुझाउला. भनि भाग्याका वारिस दाज्यू भाइभताहा कोहीआई कचहरीमा मुचुल्का लेषि दिया भन्त्या तिन्को मुचुल्का लि वात लाग्याको सर्वस्व गर्नु पर्न्या भया तिनैका हातवाट ऐन बमोजिम अंस सर्वस्व लि. भोर्मा पर्न्यालाई. तिनै वावतिका नाउको. भातपानिको पतिया जो गर्नु पर्न्या हो गराई दिनु. कदाचित्. वात लाग्या मानिस आई. फलानि स्वास्निको. मैले करणि लियाको छैन. फलानासित भेट हुदा ईकुरा. भयाका पनि होइनन. अनाहकमा. सर्वस्व लगाई मेरा नाउको पतिया गराया छन. भनि उजुर गन्यो भन्त्या वारिस्भै कचहरिमा आई मुचुल्का लेषि दिन्यासित जोरि झुटो कुरो कल्पित भयाका कुरामा वारिस भै. कचहरिमा मुलुल्का लेषि. सर्वस्व लगाई दियाको पतिया गरायाको ठहर्न्यो भन्त्या तेस्ताको ऐन बमोजिमको अंस सर्वस्व गरि २ वर्ष कैद गर्नु. म्यादका रूपैया दिया लिनु. जात जादैन. तेसै सर्वस्व मध्ये. अधिल्ला अनाहकमा सर्वस्व हुन्येका. जमा बमोजिम उसलाई. फिर्ता गराई बढता भया सर्कार लगाई दिनु. नपुग्याको लिन पाउदैन. सर्वस्व फिर्ता गराई दियाका मा दसौद विसौद वकस्यौनि केहि नलिनु. येसो भन्थ्यो भनि. कचहरिमा आई. मुचुल्का लेषि दिन्या ले भन्त्याको कुरो साचो ठहर्न्यो र. कायेल गरायो भन्त्या. एस्ता झुटालाई. ३ वर्ष कैद गरि ऐन बमोजिममा गर्नु रखाको सजाय गरि. छोडि दिनु. म सित भेट् भै करणि भयाको छ भन्थ्यो. भनि कचहरिमा आई ज्यानवंदि. लेषि दिन्या मन्त्या पछि उजुर गर्न आयो भन्त्या पनि तेस्ले

1 B II.

2 B adds दिलाइ.

3 B The text is different from नाता केहि नलाग्या to घटि such as आफु भन्दा तल्ला उपल्ला आफु मिल्दा नाता केहि नलाग्या.

4 B omits चिट्ठि.

अधि भन्या कै ठहछ, फेरि कुरो नहेनु. दंड हुन्या विहा षर्च लिन्या षत् रहेछ भन्या वात लाग्या पक्रि आयो भन्या. दंड विहा षर्च, जो पछ गरि छोडि दिनु. कारणि फेला नपरि. दंड पनि हुदैन. विहा षर्च पनि पाउदैन. भोर्मा परि षान्यालाई पतिया दिनु.

६७. भात पानिका कुरामा. पक्रि आयाका मानिस्लाई. अडा अदालत ठाना अमालका हाकिम डिठा विचारि अमालि दान्या मुषियाले एस्कराको ठेगाना नहुंजि. तिमीहरूले भात पानि. मा कसैलाई नवोर्नु. ऐहे फरक भै रहु भनि भात वाहेक गर्नालाई भातको पानि स्मेत् वाहेक गर्नालाई. पानिको हटक गरि वाहेक राषि निसाफ हेनु कुराको तहकित गर्दा. पतिया पाउन्त्या ठहन्त्यो वा. भोर्मा पर्न्या ठहन्त्यो भन्या. पतिया¹ दिनु. पतिया नगर्न्या ठहन्त्यो भन्या पनि कुराको संका उठ्या पछि. तहकित नहुंजि. फरक भै² रहनु. भनि हटका कामा. उस्ले भात पानि षायाको ठहरेन भन्या पनि हटकन्यालाई. वात लाग्दैन. भात पानि हड्किन्या. एस्तालाई पतिया दिनु पनि पर्दैन. जातैमा रहन्छ. कुरो बुझ्दा पतिया नपाउन्त्या ठहन्त्यो भन्या भात वाहेक हुन्या. भात वाहेक पानि वाहेक हुन्या पानि वाहेक हुन्छ भात पानि मा पर्न्या कुराको संका उठ्यापछि. हटक नगरि. तिन्वाट भात पानि. मा अरू वोरिन गयाको ठहन्त्यो आफुले. कुरो सुन्यापछि. हटक नगरि. भात पानिमा वोराउन्त्या. मा कचहरि कचहरिको मोष्य जो हो. तिन्मा भातको हटक नगर्न्यालाई १०० पानिको हटक नगर्न्यालाई ५० रूपैया दंड गरि कचहरिवाट हड्कियाको. नहुनाले एस्ताका हातको भात पानि षान्यालाई. पतिया दिनु. दंड पर्दैन.

६८. ऐनले भात पानिको पतिया गरि. शुद्ध हुन्या ठहन्त्याका पतिया नहुंजि भात पानिमा फरक रहनु. अरूलाई नवोर्नु भनि अडा अदालत ठाना अमाल धर्माधिकार. थरि मुषिया भताहा भला मानिसहरू. ले हटक गरि राष्याका. मानिसलाई ऐन वमोजिम. पतिया नगराई हटक मिचि भातमा सरोवर गराउन्त्या. देवपितृ कार्य चलाउन्त्यालाई ५० पानि चलाउन्त्यालाई २५ रूपैया दंड गरि. हटक हुन्यालाई. ऐन वमोजिम पतिया दिनु. जात जादैन. हटक भै. भात पानि वाहेक भयाकाले पतिया नगरि अरूलाई. भातमा बोन्त्यो देव पीतृ कार्य गरेछ भन्या ५० पानिमा वोरिछ भन्या २५ रूपैया दंड गरि पतिया गराई दिनु.

६९. जैसि वाहुन गैहले आफ्ना भात मिल्दा. जैसिलाई मात्रै चलि आया वमोजिम गायत्रि. दिक्षा मंत्र सुनाउन हुन्छ. सुन्या सुनाउन्त्या. दुवैलाई वात लाग्दैन. अरू तागाधारि. जात. र आफु भंदा उपल्ला जैसिलाई³ मंत्र सुनाउन हुदैन. कसैले सुनायेछ भन्या उपाध्या ब्राह्मणलाई सुनाउन्त्यालाई ५० रूपैया रजपुत जातलाई⁴ सुनाउन्त्यालाई ४० रूपैया तागाधारि क्षत्र जातलाई सुनाउन्त्यालाई ३० रूपैया आफु भंदा उपल्ला जातका जैसिलाई सुनाउन्त्यालाई २० रूपैया डंड गर्नु. जैसिवाट मंत्र सुन्या उपाध्या रजपुत क्षत्र जात र. घटि जातका जैसिवाट मंत्र सुन्या. उपल्ला जातका जैसि जात्मा

1 B adds गर्ने.
2 B omits भै.
3 B जैसिवाहुन्त्याइ.
4 B omits जात.

१६ वर्ष नाध्याको भया मंत्र¹ सुन्यैलाई मंत्र सुन्या १६ वर्ष मनिको रहेछ भन्या. आफु अषत्यार भै मंत्र सुन लाउन्त्या मुष्य जो हो उस्लाई. एसै ऐनको आधि² आधिका दल्ले दंड गर्नु दंड भया पछि उपाध्या रजपुत क्षत्रिले फेरि उपाध्या ब्राह्मणैवाट र. जैसि वाहुनले उपाध्या आफु भंदा. उपल्ला जातका जैसि. आफु मिल्दा जैसिवाट जात अनुसार. को गायत्रि दिक्ष्या सुन्यापछि. आफ्ना जातमा चल्छ.

७०. १९२२ साल वैसाष वदि १ रोज देशि उप्रान्त. अग्रेजका. कम्पनिमा भर्ति भयाका ब्राह्मण रजपुत क्षत्रि. वैश्य शुद्र गैह पानि चलन्या चार वर्ण छतिसै जात कोहि आया भन्या पानि नचलन्या दमै कामिसित एकै तम्बुमा सुतन्या रक्सि षान्या गर्छन्भन्या कुरो सुनाले तिन्का हातको भात पानि विना हुकुम चल्दैन. कसैले नषानु. विराना राजको तलप दर्माहा षाई आउन्त्यालाई पानिको पतियादिनाको ऐन.

७१. भोट मध्येस. तर्फ विराना राजमा गै उहाको नोकरि. पिपा कुल्लिमा भर्ति भै तलव. दर्माहा षाई आउन्त्या मानिसहरूले पानि नचलन्या जातसित येकै तम्बुमा सुतन्या वस्न्या. तमाषु गैह षान्या गर्छन् भन्या. संषा हुनाले. पानिको पतिया नगरि. एस्ताका हातको. पानि कसैले नषानु. अदालत. अमालवाट. १. पुर्जिको दस्तुर लि. पतियाको पुर्जि गरि दिनु. धर्माधिकारले १. लि पतिया दिनु. यंस्ता पतिया नगर्न्याका हातको जानि जानि षान्यालाई पनि निति स्मृति गराउनु. भात पानिको कुरो परि आयामा. कुरो छिनालाई ढिलो हुदा भोर्मा पर्न्यालाई भात पानिको. पतिया दिनाको ऐन.

७२. चार वर्ण छतिसै जात्का. कसैका छोराछोरि. दिदि वैन्हि छोरि वुहारि आमा वज्यू. फुपु माइज्यू. नाता संवंधि. गैह र. कुटुम्ब गैह भात पानि. करणि गैहमा परेछन् भन्या लाग वादि र. प्रतिवादि इदुवैलाई. झगरा नटुटि. पानि नचलन्याको पानि चलदैन. भात न चलन्याको भात चल्दैन. करणि. र. भात पानि दवाउन्त्याको र. सुनि कन भात पानि षान्याको मामिला टुट्या पछि. ऐनले पाउन्त्या पाउनन्. नपाउन्त्या पावैनन्. तिन्देषि वाहेक. अरू भोरमा पर्न्यालाई. जसलाई वात लाग्याको छ. हाज्यो हारि भन्या तेस्का र. तेस्की. को नाउको पतिया जिति भन्या देह शुद्धको. पतिया भनि अदालत ठाना अमाल गैहले पुर्जि गरि दिनु. धर्माधिकारवाट पनि दोहरा वेहोराको पतिया गरि दिनु. कायेल नामा भै. मामिला छिनीया का झगरा जस्लाई षतवात लाग्याको छ. अधिल्ला ऐन वमोजिम वापतिका नाउको. पतिया गरि दिनु.

1 B omits मंत्र.
2 B आधि.

3. Translation of chapter 89 of the Ain of 1854

“On the (duties of the) Dharmādhikārin”¹

§ 1

Upādhyāya Brahmins, Rājput, Jaiśī, Chetrī etc., (i.e.) the castes of the Wearers of the Sacred Thread, Non-enslavable Alcohol-Drinkers (and) Enslavable Alcohol-Drinkers, (as well as) the castes (*jāt*) of the Europeans (and) Muslims, Impure-but-Touchable Castes² and Untouchable Castes, (all these castes) may in the Kingdom of Gorkhā perform any act that is in accordance with their family tradition, belief (*majhap*) and the Dharma, except for cow slaughter.³ Nobody shall get excited about that. If somebody gets excited, enraged or quarrels and complains in court about such matters, punish this person who is thus disturbing the religion of others with a fine of Rs 100. If he does not pay the fine, imprison him according to the *Ain*. If a clash occurs, leading to the death of any person, life shall be taken for life, provided the guilty person belongs to a caste that can be sentenced to capital punishment. If this is not the case, he shall be sentenced to life-long imprisonment⁴ and his ancestral property confiscated according to the *Ain*.

§ 2

If (a) any person commits sexual intercourse with a widow or married woman from the castes of the Wearers of the Sacred Thread, including

1 The editions and manuscripts mostly use the spelling *dharmādhikār(a)* throughout the MA.

2 For reasons of comparability and convention, my translation of caste groups basically follows the English equivalents of Höfer 1979 (cf. Fig. 2, p. 45): *tāgādhārī* = Wearers of the Sacred Thread, *namāsinyā matvāli* = Non-enslavable Alcohol-Drinkers, *māsinyā matvāli* = Enslavable Alcohol-Drinkers, *pāni nacalnā choi chīto hālnuparnyā* = Impure-but-Touchable Castes, *pāni nacalnā choi chīto hālnuparnyā* = Untouchables.

3 See MA 1854/66, Höfer 1979: 219f. Michaels forthc. (“Kuhschützer und Kuhesser”).

4 “Life imprisonment” (*dāmal*) is mostly accompanied by the branding and shaving of the head of the guilty person.

Upādhyāya Brahmins, Non-enslavable Alcohol-Drinkers (or) Enslavable Alcohol-Drinkers, (and) if (b) other persons ignorantly (*bhor-mā*) take rice or water touched by such a woman, the court (*adālat*), police station (*thānā*) or local office (*amāl*) shall grant *patiyā* on the grounds of ignorance (and) collect a fee (*dastur*) of Rs 2 for (persons of) *aval* (category), Rs 1-8 for *doyam*, Rs 1 for *sim* and 8 *ānās* for *cahār*.⁵ (Moreover,) they must order the Dharmādhikāra to issue a certificate of rehabilitation.

§ 3

If a person other than the Dharmādhikārin issues a certificate of rehabilitation, imprison him for eighteen months. If he has only expressed his intent (to do so), imprison him for one year. If he pays an amount double to the value of such a sentence, release him.

§ 4

The Dharmādhikārin shall grant *patiyā* only (in cases) of *bhor* (i.e. to persons who commit the offence unknowingly). To persons who commit an offence with intent, grant *patiyā* only after an order (*hukum*⁶) from (His Majesty's) government and an order (*marji*) of the Mukhtiyār is received. And (in cases where) according to the *Ain* *patiyā* should not be granted, (grant *patiyā* only) if the order of (His Majesty's) government and the order of the Mukhtiyār are signed with the Royal Red Seal (*lāl mohar*). If the head Dharmādhikārin grants *patiyā* with intent to a person whom *patiyā* should not be given without the Red Seal, he shall be punished with a fine of Rs 500 and prohibited from working (*kām*) as a Dharmādhikārin. If (*patiyā* has been granted) by (other) officials, he shall be fined Rs 50 and dismissed.

§ 5

If a main officer (*mokhya hākim*) has, in accordance with the *Ain*, granted *patiyā* for water—without taking fines, confiscation of property, etc.—to a person guilty of any offence which, according to what is written in the *Ain*, is punishable through degradation of caste status and commensal relations

5 For these categories, see MA 1854/40/28 and M.C. Regmi 1976: 132.

6 In Nepal, a *hukum* is generally only received from the king or family members of the Rāṇā dynasty who have the title of king (e.g. *śrī-3-mahārāja*), whereas a *marji* is an order from the *mukhtiyār* (Prime Minister) or high-ranked officers.

(with caste members), he shall be punished a fine of Rs 40. Grant *patiyā* (to persons in cases) prescribed by the *Ain* if *patiyā* for water is to be given, (but) only after punishing the guilty persons according to the *Ain*.

§ 6

If any chief (*hākim*), judicial officer (*ḍiṭṭhā*, *bicāri*), local officer (*amāli*) (or) royal guard (*dvāryā*) of any government office (*aḍā*), (military) district office (*gaudā*), court (*adālat*), police station (*thāna*) (or) local office (*amāl*), by doing forgery or hiding earlier letter of confession, issues a decree without stating the fact that somebody from the Wearers of the Sacred Thread, who had been ostracised from offering cooked rice (and) water to members of his caste by his predecessor, prepares false documents and lifts the (order of) ostracism, and if inquiries reveal that the confession (statement) obtained by the predecessor was valid, and that the accused should be ostracised from offering cooked rice to members of his caste, the officer or local who has lifted the ostracism shall not be degraded to a lower caste if he himself has not accepted cooked rice from the hands of the guilty person. Punish him only with a fine of Rs 500. If he has lifted the ostracism and himself accepted cooked rice from the hands of the guilty person, punish him with a fine of Rs 500. Deprive him of his Sacred Thread (and) degrade him to a low caste. If he does not pay the fine, imprison him according to the *Ain*.

§ 7

If a insane person who cannot show the intelligence (*khavar*) to know about respect (*ijjat*), nor what to do and what not to do, nor what to eat and what not to eat then eats some forbidden food or (food) from the hands of a person either from an Untouchable Caste or from the hands of someone lower than his caste, make him pay a fee (*godāna*) to the Dharmādhikārī after his senses have returned at the rate of Rs 5 for (persons of) *auval* (*aval* or *abbal*) category, Rs 4 for *doyam*, Rs 3 for *sim* (and) Rs 2 for *cahār*. (Make him) undergo expiation (*prāyaścīt*) (as well).

§ 8

If any person out of his own will (*munāsiv*) (and) because of pain or anguish attempts suicide by jumping, cutting his own throat, stabbing himself,

hanging himself or by taking poison but survives after taking medicine,⁷ make him pay a fee (*godāna*) of 1 *ānā* to Rs 2 to the Dharmādhikārin according to his financial status. Let the Dharmādhikārin grant *patiyā* and *prāyaścīt*. Such a person cannot be punished by the local officer (*amāli*).

§ 9

In (the three) cases where a person who (a) was mistakenly (*virām gari*) (killed) by cutting (his throat) or hanging, (b) committed suicide by cutting (his throat) or hanging (himself) saying "I (want to) die" (or) by using a weapon against himself, (or by) jumping into a river, off a cliff, into a well, off a roof, into the sea, (or) by willfully taking poison (*jahar, viṣ*), or (c) was killed at the hands of a member of an Impure-but-Touchable Caste, the Dharmādhikārin's *godāna* fee shall be attained from his sons, brothers and other kin (*gotiyār*) at a rate of Rs 1 for (persons of) *auval* category, Rs 8 *ānā* for *doyam*, (and) 4 *ānā* for *sim* and *cahār*. Having caused (the fee) to become the *amāli*'s responsibility, the sons, brothers and other kin (of the deceased person) shall perform the funeral rites (*kṛyā*).

§ 10

If somebody has been executed by the government on the charge of murder, and (then) if the brother, son or any other kin (*gotiyār*) comes (to any government office) saying "May I have (the permission) to perform (the rites) for liberation (*satgati*, i.e. death rituals)", the court (*adālat*), police station (*thāna*) (or) local office (*amāl*) shall allow the funeral rites (*kājkṛyā*) to be performed after issuing a certificate of rehabilitation and after the Dharmādhikārin has granted posthumous rehabilitation (*prāyaścīt-ko patiyā*). For performing *patiyā*, (the applicant) shall pay a fee from one *ānā* to two Rs, according to his or her financial status.

§ 11

If any person who was degraded by caste, cooked rice (and/or) water because (1) of sexual intercourse (*karaṇi*) with [a] a close relative of the same clan (*hāḍnātā*), or [b] a person belonging to a lower caste, [c] an Impure-but-Touchable Caste (or) [d] an Untouchable Caste, (or) because (2) he took

7 Attempted suicide is not regarded as a crime but as a sin. It is therefore necessary to grant rehabilitation. However, note that in this paragraph both *patiyā* and *prāyaścīt* is required.

cooked rice (and) water (from a-d), (and) dies, and (then) his sons, brothers and brother's sons come (to any government office) saying "If I get *patiyā*, I want to perform (his) death ritual (*kājkṛyā*)", (in such cases) shall (the authority in question) shall grant *patiyā* with respect (*vihorā*) to the rites of purification.

§ 12

If a person dies, who had lost his caste by being degraded to a lower Untouchable Caste, or by taking cooked rice or water from the hands of somebody from a lower caste, those persons who perform the funeral rites or arrange for such performances without (first) obtaining expiation through (a writ of) *patiyā* for (performing the) death rituals (*kṛyā śuddhako patiyā*) shall each be punished (with a fine) of Rs 5. In addition, the Dharmādhikārīn shall collect Rs 2 for (persons of) *aval* category, Re 1 for *doyam*, 8 *ānā* for *sim* and 4 *ānā* for *cahār*, and (then) grant *patiyā*, thereby entitling (the offenders the right) to offer cooked rice (and) water (to persons of equivalent caste status).

§ 13

If any woman man (or) woman is found guilty of murder⁸ or infanticide⁹ and the crime was not known before (but only after) a report was made, the persons who—out of ignorance (*bhor*)—have accepted cooked rice from the hands of such sinners (*pātaki*) shall pay a fee (*godāna*) fee to the Dharmādhikārīn at the rate of Rs 3 and 8 *ānā* for (persons of) *aval* (category), Re 1 and 12 *ānā* for *doyam*, 14¹⁰ *ānā* for *sim* and 7 *ānā* for *cahār*. The Dharmādhikārīn shall then grant them a certificate of rehabilitation for cooked rice (and) water.

§ 14

If (a) any person dies who had been punished with death or life imprisonment, (or who) had been deprived of his Sacred Thread and was (thereby) degraded from his caste (*patita*), (or who) had been ostracized from cooked rice (and) water because of sexual intercourse with (a person

8 Cf. MA 1854/64.

9 Cf. MA 1854/143.

10 In MA1854-Ed1: 12 *ānā*, but in all manuscripts: 14 *ānā*.

from) the Untouchable (*achuti*) Castes and (then) degraded to that caste, and if (b) his brother, son, daughter or anybody from his clan comes (to a government office) saying "If I get *patiyā* for (performing his) death rituals (*kṛyā śuddhako patiyā*), I will perform the death rituals", let the Dharmādhikārin collect a fee (*godāna*) at the rate of Rs 5 for (persons of) *aval* category, Rs 4 for *doyam*, Rs 3 for *sim* and Rs 2 for *cahār*, and (then) grant the *patiyā* for death rituals.

§ 15

If somebody is ostracized from (contact with) cooked rice (and) water without disclosing the details (*vehorā*) of the sexual contact (that led to his ostracism), and if it is subsequently proven that such an accusation had been made out of anger, the person who had made such a (false) accusation shall be imprisoned for eleven months. He shall not even be freed (on bail, i.e.) by taking money from him (in lieu of imprisonment). Keep him imprisoned. If over the course of inquiries (*rovkār*) the slanderer accuses on the grounds of suspicion but fails to produce evidence (*kāyel garnu*), and if it is found that the accused person cannot be ostracized from cooked rice, the (slanderer) shall be punished with a fine of Rs 10. If the rupees are not paid, imprison (him) according to the *Ain*. The accuser need not make *prāyaścīt*. He will remain in his caste status.

§ 16

If any person from the Wearers of the Sacred Thread commits any crime which is punishable through partial shaving of the head, (and) who is (indeed) shaved (and thereby) degraded to a Non-enslavable Śūdra Caste to whom *patiyā* for water (only) is granted, the naming ceremony, rice-feeding ceremony, marriage or funeral rites (*kājkṛyā*) of children born to (his legally) married or other wives shall be performed by Brahmins as if they belonged to a Non-enslavable Śūdra Caste. In the case (of children belonging to men) who have not obtained *patiyā* for water, do not perform any rites. Any Brahmin who performs (himself) any rite of the Water Non-acceptable Castes as well as the person who performs such rites (*jajamāna*) (for a client), punish with a fine of Rs 5 each. If the rupees are not paid, imprison (each) for one month and release (them afterwards).

§ 17

In (those cases of) granting *patiyā* for water to committers of incest (*pātaki*); if the *Ain* prohibits the granting of *patiyā* for water to persons who are guilty of having incest with (somebody from) the same clan (*hāḍnātā*) and having sexual contact with (somebody from the) Untouchable Castes (*choi chīto hālnuparnyā jāi*), (and) if (the person) has consumed cooked rice (and) water (served) from them (i.e. the Untouchables) (and) has been shaved (i.e. degraded) for that offence, water touched by (such a) sinner (*pātaki*) cannot be accepted. Do not grant *patiyā* to them. Except for these (two) categories, persons who have been shaved for other reasons shall belong to the sinner (or) Śūdra Caste. Water can be accepted (from them). (However,) they do not receive *patiyā* for cooked rice. While granting them *patiyā* for water, the Dharmādhikārī shall collect a fee (*godāna*) at the rate of Rs 10 for (persons of) *aval* category, Rs 8 for *doyam*, Rs 4 for *sim* and Rs 2 for *cahār*, and (then) grant *patiyā* for water. Such sinners shall not be allowed to apply a *ṭikā* to Brahmins, (but) if (they) give gifts (*dāna*) and ritual fees (*dakṣiṇā*), it is allowed. Give *dāna* (and) *dakṣiṇā* without applying *ṭikā*. (Regarding) a Brahmin who accepts *ṭikā* from the hands of such (sinners), punish with a fine of Rs 2 1/2; and for the person who gives the *ṭikā*, (punish) with Rs 5. If they do not pay the rupees, imprison them (for a period) according to the *Ain* and then release them. Any Brahmin who accepts a *ṭikā* (from them) without knowing about their status shall not be deemed guilty.

§ 18

If any woman commits sexual intercourse with any person from any caste, from Brahmin to Sweepers (Poḍe), either ignorantly (*bhormā*) believing him to be her husband or (occurring) at a time when she has been deprived of (all) her ten senses (*iṃdrīya*) from having been fed intoxicants, and if she (then) comes (to court) asking (for *patiyā*) saying "It happened unknowingly; let me get *patiyā*", (such a) woman who unknowingly had illegitimate sexual contact with another man shall not get *patiyā*. This is not regarded as (a case of) ignorance. If (however) a man (has committed illegitimate sexual intercourse) out of ignorance, let him receive expiation (*prāyaścīti*) according to the *Ain*.

§ 19

If any man commits sexual intercourse (*karaṇi*) with a widow, married woman or a girl from Upādhyāya, Jaiṣī Brahmin, etc. (as well as women from the) Wearers of the Sacred Thread or Alcohol-Drinkers, and no report (is given) regarding that adultery, and if the man runs away and is not found after being sought, and if he later dies, (then) a statement shall be taken (from those persons) who had known or heard (about the matter). If there are such persons who had known or heard (about the matter), grant expiation (*prāyaścīt*) to those persons who have (since knowing about the matter) ignorantly (*bhormā*) accepted cooked rice (from the hands of the girl, married woman or widow). If there is nobody who had known or heard (about this matter), the confession and whatever else is necessary shall be obtained from the adulteress. Grant expiation (*prāyaścīt*) to those persons who have ignorantly consumed cooked rice (and) water (from her).

§ 20

If any man from the Four Varnas and Thirty-six Castes,¹¹ including Upādhyāya (Brahmins), commits adultery within (his) clan (*hādnātā*) or with a woman from any Impure-but-Touchable Castes (and) takes cooked rice (and) water (from her), and (then) commits sexual intercourse with his own wife and feeds her cooked rice (and) water, and runs away before the court can question him on whether or not he had disclosed this matter to his wife, and if his wife (then) comes (to the court) complaining, "I did not know that my husband had committed adultery with such (a woman and) that he had consumed cooked rice (and) water (from her). I ignorantly (*bhormā*) committed sexual intercourse with my husband and (then) took cooked rice (and) water (from him)", (then) let him (i.e. the Dharmādhikārin) grant *patiyā* to her (but only) after she has issued a paper saying "If my husband is arrested, and (during the interrogation) it is proven that he had informed me of this matter, I should be degraded from (my) caste." Any unborn children, too, shall become pure (*śuddha*) through the *patiyā* of (their) mother. If the husband is arrested and it is proven through (his) interrogation that he had disclosed (the matter to his wife), make the woman lose (her) caste and grant¹² *patiyā* (to all persons) who have eaten (cooked rice and water) from

11 This expression denotes the totality of castes which amounts (in the MA) to approximately 70 groups: see Höfer 1979: 115.

12 The translation follows B.

such (a woman). If it is proven that (he had not given) a report (*jāher*) (on the matter to his wife), the woman is to be regarded as sound (*sadya*, i.e. pure) and she remains (acceptable) with (respect to) cooked rice (and) water.

§ 21

If any man commits adultery within his clan (*haḍnātā*), a crime which is punishable (with degradation) according to the *Ain*, such cooked rice (and) water are no longer acceptable (from him to his caste members), but he does not report (*jāher*) (on the matter to his wife), and subsequently commits sexual intercourse with his (legally) married wife or any other wives whose hands he can consume cooked rice or other light meals from, (then) grant *patiyā* for cooked rice (and) water to such an ignorantly (*bhormā*) affected woman. If the husband had (sexually) misconducted himself (and) afterwards committed sexual intercourse with (his wife) and she became pregnant, and if a son or daughter is born, water is acceptable (from her), (but) cooked rice is not acceptable. The son and daughter also become pure (*śuddha*) by the *patiyā* of (their) mother. If the wife intentionally (*jāni-jāni*) seduces her husband after his misconduct, she meets with the same caste in which her spoiled husband has been sent (i.e. has been degraded to). Son and daughter also follow the caste of (their) mother.

§ 22

If any person has knowingly committed sexual intercourse (*karaṇi*) with a woman belonging to the Impure-but-Touchable Castes, but has not consumed cooked rice or water (from her hands), and if the man does not give any report about his offence (*vigryā*) and if there was no *patiyā* (for him), if he (then) commits sexual intercourse with his (legally) married wife, concubine, prostitute (or) any other married woman or feeds them cooked rice (and) water from his hands, and if the woman allowed the husband to have sexual intercourse with her without knowing of his offence [i.e. illegitimate sexual intercourse with a woman from the Impure-but-Touchable Castes], and if she has consumed cooked rice (and) water from his hands, the wife and the child in her womb or born to her subsequently shall be deemed ritually pure through *patiyā* of the wife because the man can retain his caste (status) through *patiyā*. Cooked rice (and) water may be taken from the hands of such persons. If the woman (i.e. mother) who had ignorantly committed sexual intercourse (with her husband) dies without obtaining

patiyā and her children apply for *patiyā*, grant *patiyā*. If the wife has knowledge of her husband's illegitimate sexual intercourse with such a woman (from any Impure-but-Touchable Caste) and has (thus) restrained from committing sexual intercourse with him (and) from taking cooked rice (and) water from his hands, but has not been able to talk about it due to shame and keeps (the matter) secret, and if she then lets (him) offer cooked rice (and) water to commensal relatives (*bhatāhā*), keeping them in ignorance (i.e. without telling them the truth), punish her with a fine of Rs 20 for having let others consume cooked rice (and) water from his hands even though aware of the (guilty) fact. Grant *patiyā* on the grounds of ignorance to all persons who innocently (accepted cooked rice and water from the hands of the guilty person).

§ 23

If any man knowingly commits sexual intercourse with (a woman from) an Untouchable Caste and (then) takes cooked rice (or) water from her hands, yet does not report (to his wife) that he has himself committed sexual intercourse or taken (cooked) rice or water from her and (then) commits sexual intercourse with his (legally) married wife, or prostitute etc., or offers them cooked rice (or) water from his hands, and if the woman who has allowed such a husband to have sexual intercourse with her without knowing the guilt which her husband had committed by committing sexual intercourse with a woman from an Untouchable Caste does not become pregnant, she shall not lose her caste. Arrange to grant her *patiyā* for cooked rice (and) water. If the woman gets pregnant, cooked rice shall not be accepted (from her hands). Grant *patiyā* for water. Water (MsB: only) may be taken from the hands of children who are later born to such a woman. Cooked rice cannot be accepted (from their hands). Children born to such women shall not receive the Sacred Thread, no matter whether their father belongs to any Brahmin or other Wearers of the Sacred Thread; they shall become (members of the) Non-enslavable Śūdra Caste. The children of the Non-enslavable Alcohol-Drinkers become (members of the) Enslavable Alcohol-Drinkers. Children born to men belonging to the Enslavable Alcohol-Drinkers shall belong to a lower category (within the group) of the Enslavable Alcohol-Drinkers. If the wife has knowledge that her husband has consumed cooked rice (and) water from such a woman (from an Untouchable Caste) and (afterwards) has sexual intercourse (with him) or has avoided sexual intercourse (with him), (and) took cooked rice (and) water from his hands, but could not report the

fact out of shame and (thus) kept it secret, and if she has let him offer cooked rice (and) water from his hands to his commensal relatives (*bhatāhā*), punish her with a fine of Rs 25 for having let others consume cooked rice (and) water from his hands even though aware of the misconduct. Grant *patiyā* on the grounds of ignorance to all persons who were ignorant (in accepting cooked rice (and) water from the hands of the guilty person).

§ 24

If any person belonging to a shaveable caste (*muḍinyā jāī*) whose head has been shaved (and thereby degraded to a lower caste), and while being shaved was also forced to eat unacceptable (i.e. impure) food (*abhakṣ*), and was punished as such because of the malice of ministers and nobles (*bhārdār*, lit. "bearers of the burden of the state"), although he has not caused any harm to his government, nor spoiled (friendly relations) with the northern and southern emperors, nor threatened the life of the king, ministers and nobles, nor committed sexual intercourse with the wife of another person, nor committed any murder or any other crime punishable by the shaving of the head, he shall not receive *patiyā* for cooked rice, (but) he shall receive (*patiyā*) for water. Grant *patiyā* for water only. If such a person asks for *patiyā* saying "It is true that I had been shaved (of the *śikhā*) but I was not fed unacceptable (i.e. impure) food (*abhakṣ*)," grant *patiyā* if the nobles had hold (it to be true) that he was shaved (but) *abhakṣ* had not been fed to him. After looking at (the status of) the person, the Dharmādhikārī shall collect a fee (*godāna*) at the rate of Rs 25 for (persons of) *aval* category, Rs 12.50 for *doyam*, Rs 6 for *sim* and Rs 3 for *cahār*, and (then) grant *patiyā* for cooked rice (and) water. Such a person shall then rejoin his caste after performing an expiation (*prāyaścitta*).

§ 25

Section (1): If any person belonging to a Brahmin, Rājput, Kṣatriya or other Wearers of the Sacred Thread commits sexual intercourse with any close or clan relative (*hād gotra*), except for (a woman from an) Untouchable Caste or a low Impure-but-Touchable Caste without taking cooked rice (and) water (from her hands);

Section (2): If any person belonging to the Enslavable Alcohol-Drinkers commits sexual intercourse with a woman from a higher Brahmin caste, or with (his) close or clan relatives;

Section (3): If he has cut the throat¹³ of his trustful wife's rapist (who is an Upādhyāya or Jaiśī Brahmin),

Section (4): If he had been shaved (of the *śikhā*) on charges of treason; —if any person who has committed any of the crimes of the sections (1-4), (but) has not been branded in the face with a letter or insignia, goes to a place where fighting with weapons is taking place between his government and an enemy (*paracakri*), saying "I will expiate my crime by fighting to death (*dehānta prāyaściti*)" and fights (accordingly), the Dharmādhikārin shall grant him *patiyā*. He shall be pardoned if the woman with whom he has committed sexual intercourse is related to him within "seven degrees". Water may be taken (from his hands), but not cooked rice. Both cooked rice (and) water may be taken from his hands if he has committed any other crime.

§ 26

(a) A person branded with the (initial) letter of a caste on the face for committing a crime (*virām*, i.e. sexual intercourse) with an Untouchable or Impure-but-Touchable low caste, (b) a person branded with the (initial) letter of life imprisonment, (c) a person from a Water-acceptable Caste who had been degraded to a Water-unacceptable Caste and whose share of property has been confiscated according to the *Ain* for committing sexual intercourse with somebody from an Untouchable Caste, (and) (d) a person who has knowingly consumed cooked rice (and) water from (the hands) of (somebody from) an Impure-but-Touchable or Untouchable Caste,—such kinds of guilty persons do not get back their (previous) caste (and) cooked rice (status). (however,) if such persons go to a place where a battle is being fought with weapons and participate in the fighting, their crime shall be pardoned, but they cannot get back their (previous) caste (and) cooked rice (and) water (status).¹⁴

§ 27

If any man or woman from any of the Four Varṇas and Thirty-six Castes commits any crime punishable by life imprisonment, and is accordingly branded on the face and sentenced to life imprisonment but escapes, their

13 Turner 1931: s.v. *jār*: "When the husband killed an adulterer with his khukri and cut off the woman's nose and hair, he proclaims openly in the village *jār kāṭ* and displays the blood-stained khukri. This proclamation saves him from accusation of murder."

14 Ms C: cooked rice status only.

children shall belong to the sinful (*pātaki*) caste. If the (boys) take as wives, with mutual consent, women from Impure-but-Touchable or Untouchable Castes, provided they do not accepted cooked rice (and) water from the hands of such women, this shall not be considered a crime. If they take a wife from a Water-acceptable Caste, they shall be punished in the same manner as a man from an Untouchable Caste who takes as his wife a woman from a Water-acceptable Caste.

§ 28

If anybody who takes cooked rice (and) water from the hands of somebody from the Four Varnas and Thirty-six Castes is guilty of sexual intercourse or of having accepted cooked rice (and) water from the hands of somebody from a low caste, after having seen (the offence being committed) or knowing about it, but has not offered cooked rice (and) water to other persons, degrade him to the caste of the person from whose hands he had consumed cooked rice (and) water. (Imposing) fines and confiscating (his property) are not allowed. If such a person, having accepted cooked rice (and) water (from the hands of a person who is guilty of the offences mentioned above), allows his relatives to consume cooked rice touched by him, or offers water from his hands to any other person, confiscate his share of the ancestral property according to the *Ain* (and) degrade him to the same caste (of the person from whose hands he had consumed cooked rice (and) water). If his wife ignorantly allows him to have sexual intercourse (with her), and if his sons and other family members have (ignorantly) consumed cooked rice (and) water from his hands, arrange for the granting of rehabilitation due to ignorance (*bhor-ko patiyā*). If his wife has knowingly (*jāni jāni*) allowed him to have sexual intercourse with her, and if she knowingly let others consume cooked rice (and) water from his hands, degrade them all to the same caste (of the person to whom cooked rice and water was offered). Grant *patiyā* to innocent (*ajān*) children under age twelve. After confiscating (the property) of the chief offender belonging to the house(-hold) (which property had been confiscated), the other family members cannot be (likewise) punished with confiscation of property. If a person from an Enslavable Caste takes cooked rice (and) water (from the hands of a person who is guilty of the offences mentioned above), (but) does not let his commensal relatives (*bhatāhā*) consume cooked rice, yet other persons take water from his hands, degrade him to the same caste (as the original offender). (Imposing) fines and confiscating (property) are not

allowed. If he has let his commensal relatives consume cooked rice and let others take water from his hands, expel him from his caste, degrade him to the same caste (as the original offender) and enslave him. If his wife ignorantly allows him to have sexual intercourse (with her), and his sons and (other members of) his family consume cooked rice (and) water from his hands, grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*). If his wife has knowingly allowed him to have sexual intercourse (with her and) let others knowingly consume cooked rice (and) water from his hands, degrade them to the same caste (as the original offender) if they are older than twelve, and grant *patiyā* if they are under twelve. After the chief offender has been enslaved, other members of his family shall not be enslaved.

§ 29

If any person belonging to the Four Varṇas and Thirty-six Castes, including the Wearers of the Sacred Thread (*tāgādhārī*), being away from home or while abroad falls ill, falls down, is wounded (or) is bitten (by animals), (thus) becoming helpless, and because no one from the appropriate caste status is available in the foreign country (and this person) takes cooked rice (and) water from the hands of a person from a lower caste than himself and/or water from the hands of a person from a Water-unacceptable Caste, and (then) if such a person, after becoming well again, offers the reason saying, "I have accepted cooked rice (and) water from the hands of such persons while being very ill and helpless," then, because the latter had offered (cooked rice and water) in order to help while the former was unable to move and because no other person of appropriate caste status was available at that place, (the low-caste person) who had offered cooked rice (and) water to him shall not be considered guilty. (Furthermore,) grant *prāyaścīt* to the person who has accepted cooked rice (and) water (from the hands of the low-caste person). If this person, who himself reports that he has eaten (cooked rice and water) in a helpless condition, dies without receiving *prāyaścīt*, his sons, brothers or other (members of the) family also receive *prāyaścīt*. If any person has accepted cooked rice (and) water from the hands of a person belonging to a lower caste while being in a helpless condition, (but) neither the eater nor the offerer reports (the matter) and (thus) keeps it secret, (and) if the secret is reported by another person, then, because they had failed to report the matter, the person (who has accepted cooked rice and water from the hands of a low-caste person) shall be deemed

to have done so of his own will. Punish the (low-caste person) who had offered him (cooked rice and water) with a fine of Rs 20. The eater shall not receive *patiyā*; do not grant (it to him). If the eater offers cooked rice to other innocent persons, punish him with a fine of Rs 40. If the rupees are not paid, imprison him according to the *Ain*.

§ 30

If a father and mother have been degraded because they have committed illegitimate sexual intercourse with (or) consumed cooked rice (and) water from somebody belonging to an Impure-but-Touchable Caste or Untouchable Caste, and were (then) mixed with these castes, and if children born to them before such degradation have remained with them and consumed cooked rice (and) water (from their hands), and if the relatives of such children on the paternal or maternal side, or any friends, come and submit a petition before the children have reached the age of twelve, saying "They are of pure birth and we are willing to consume cooked rice (and) water (from their hands) if *patiyā* is granted to them," grant them (the children) rehabilitation. If the children, being between the ages of twelve and sixteen and having (thus) become sensible (*jñāna*), do not have an heir (or guardian?), and if they had not accepted cooked rice (and) water from the hands of their father and mother, and if they then come to (court) claiming "We were innocent children, there was nobody to take care of us, we had lived together with our father and mother worshipping them, we (therefore) want to get *prāyaścīt*," they are considered to have ignorantly eaten (cooked rice and water offered by their parents). Inquiries shall be conducted if they approach any court (*adālat*), police station (*thāna*) (or) local government office (*amāl*) with this petition. Or, even if they do not submit any petition, (and) if it becomes known by others, grant them expiation (*prāyaścīt*). Children who continue to consume cooked rice (and) water even after they have crossed the age of sixteen, shall not be granted *patiyā*. If any head government official issues a writ certificate of rehabilitation in the case of water, saying "They are eligible for expiation," (yet) knowing about their contamination (*vigryā*), confiscate his share of the ancestral property according to the *Ain*, remove the Sacred Thread of the Wearers of the Sacred Thread, (and) degrade other persons (than *tāgādhāri*) to the same caste (as the children). If other local officers (*thari* or *mukhiyā*) say that water can be taken (from such children), punish them with a fine of Rs 20 each, and every (other) gentleman of the court (*kacahari*) with a fine of Rs 5 each. No fine

shall be imposed on persons who were not present in the court. If commensal relatives (*bhatāhā*) have consumed cooked rice (and) water (from their hands), and members of his family say "Kindly grant us *patiyā*, we will not mix with him," arrange for the granting of *patiyā*.

§ 31

(If the *śikhā* of) any person from the Upādhyāya Brahmin Caste to (other) Wearers of the Sacred Thread is shaved after having committed incest with a blood relative (*hāḍṇātā*) other than his natural mother and his natural daughter, or after having been charged with treason, the offspring born to such sinful persons (*pātakī*) before they had received *patiyā* shall be granted *patiyā* for water, and shall be degraded to the Non-enslavable Śūdra Caste.

§ 32

If a man elder than twelve (and) belonging to any of the Four Varṇas and Thirty-six Castes has committed sexual intercourse with a woman from an Impure-but-Touchable (or) Untouchable Caste, (or) has committed sexual intercourse with a blood relative (*hāḍṇātā*), (or) has eaten forbidden food (such as) stool (etc.), (or) has had anal (i.e. homosexual) intercourse, and if the matter is not reported, (and) if the man (then) marries a girl of his own caste, (and) if one or two such misconducts (*upadra*) are reported after the marriage, the wife who has married that boy shall be granted *patiyā* for cooked rice (and) water if she says, "I will not be with this man and I will also not consume cooked rice (and) water from his hands" and if she has not had any children (from him) nor been made pregnant (by him). If she has had children (or) is pregnant, she shall be granted *patiyā* for water only. Due to the *patiyā* (granted) to the mother, water can (also) be accepted from her sons and daughters. If the woman subsequently had sexual intercourse with another (man), the husband shall not be entitled to cut the throat (of the lover). If he cuts (the lover's throat), his life shall be taken in return.

§ 33

If any person belonging to the Wearers of the Sacred Thread knowingly accepts cooked rice (and) lentils (*dāl*), not including rice cooked in milk (*khir*),¹⁵ from the hands of a person belonging to a low caste from which

15 Cf. § 47.

cooked rice is not acceptable, or from a kitchen which has been polluted by such a person, he shall not get *patiyā*; do not grant (it to him). If he takes cooked rice (and) pulse from the hands of a person belonging to lower (*kami*) caste or smaller (*ghaṭi*) caste from which cooked rice is not acceptable, or from a kitchen which has been polluted by such a person, and if he contaminates his commensal relatives (by feeding them cooked rice from his hands), confiscate his share of the ancestral property according to the *Ain*, mix him with the caste of that person which he has touched and from whose hands he has eaten. He shall not be granted *patiyā* for cooked rice.

§ 34

If any man from the Wearers of the Sacred Thread other than Upādhyāya Brahmin or Alcohol-Drinkers has taken as his wife a girl of commensal relatives, (i.e.) of a matching caste, after the girl has been given *dikṣāmantra* (if she belongs to a family where it is customary) to give the *dikṣā* (Skr. *dikṣā*) (to the married wives),¹⁶ (then) the man who has taken the girl (as his wife), and also his brothers, are under obligation (*kar*) to consume cooked rice (offered by her). If they do not eat (it), and an accusation is made at any court (*adālat*), police station (*thāna*) or local government office (*amāl*), fine them (i.e. the officers) from the court, police station, or local government with a fine of Rs 10 each. Let them (the brothers) accept cooked rice from the hands of that girl. The commensal relatives shall not be obliged to accept cooked rice from the hands of a widow or (re-)married woman who has been taken as a wife (by another man), even if she is of the same caste, if they do not want to do so. While dividing the ancestral property, grant a properly married wife a three-fifth share, (and) a (widow or remarried wife) a two-fifth share.

§ 35

When hearing the *mantra* (i.e. during the initiation), the Wearers of the Sacred Thread, including Brahmins, and those Alcohol-Drinkers for whom it is customary to receive the *dikṣā* (in the initiation), shall hear (and) recite the *mantra* given by their preceptor (*guru*) according to their own tradition followed by their fathers (and) forefathers (*purkhā*). If they do not recite the *mantra* according to their own tradition followed by their fathers (and)

¹⁶ In some Nevar castes (e.g. Karmācārya, Śreṣṭha, Rājopādhyāya etc.) it is usual that the wife receive tantrik *dikṣā* after marriage.

forefathers (*purkhā*) (and) follow the Buddhist path, (or) atheism, (or any of the) Jhannā-Pannā doctrine (*mat*),¹⁷ impose a fine of Rs 50 on them. If they have themselves consumed cooked rice from a member of the Jhannā-Pannā doctrine, (and) if they have also contaminated others (by feeding them cooked rice), confiscate their share of the ancestral property according to the *Ain*. Remove their Sacred Thread and degrade them (to a lower caste).

§ 36

When hearing the *mantra* (i.e. during the initiation), a person following the householder (*gṛhastha*) *dharma* belonging to the Brahmin, Rājput, Wearer of the Sacred Thread (or) Chettri castes shall not hear the *dikṣā-mantra* of the Saṃnyāsi, Vairāgi, Nānak, Kānpaṭṭā-Jogi, Jaṅgama (or) Sevaḍā ascetic sects (*bheṣadhāri*) who have renounced the *dharma* of a householder, and (he shall not) respect them as their (*dikṣā*-) *guru*. If he does respect somebody from these ascetic sects as his *guru* and receives the *dikṣāmantra* from him (i.e. this *guru*), penalize the householder with a fine of Rs 50. If he has accepted cooked rice (from the hands of the *guru*) and has have also contaminated others (by feeding them cooked rice), punish him according to the *Ain* (and the chapter) on consuming cooked rice offered by unauthorised persons.¹⁸ If any person, man or woman who is not following the *dharma* of a householder receives the *dikṣāmantra* from any *guru* of an ascetic sect, it is not considered as unlawful.

§ 37

If a man from a caste not allowed to wear the Sacred Thread mistakenly states, "I belong to a high caste" (and) wears the Sacred Thread in his own country or returns with the Sacred Thread from a foreign (*virāna*) country, and if he contaminates other persons (by feeding them cooked rice) while wearing the Sacred Thread, (and) if he belongs to the Non-enslavable Alcohol-Drinkers, confiscate his share of the ancestral property and wedding expenses, take his Sacred Thread, imprison him for one year and release him. If he belongs to the Enslavable Alcohol-Drinkers, take the Sacred Thread away from him and enslave him. Arrange for the granting of *patiyā* for any person (who) ignorantly (takes cooked rice from his hands). If he has worn the Sacred Thread while staying only in his own country (and) did not

¹⁷ Meaning unclear: probably word-play denoting some obscure sects or religious path.

¹⁸ Ch. 90 (*Bhāmā bornyāko*).

contaminate others (by feeding them cooked rice), punish him with a fine of Rs 60. If he returns with the Sacred Thread from a foreign country, (but) did not contaminate others (by feeding them cooked rice), punish him with a fine of Rs 20. If he does not pay (all) the rupees, imprison him at the rate of one month for every 5 rupees (of the unpaid fine).

§ 38

If someone has committed sexual intercourse with a woman belonging to any of the Impure-but-Touchable Castes, such as Muslim, Mleccha (Foreigners, Westerners), Kusle (Nevār musicians), Kasai (Nevār butchers), Kalvār (distillers in the Terai), Dhobi (washermen) (or) Kulu (Nevār tanners and drum-makers), but has not taken water from her (hands), (and) if the same person then commits sexual intercourse with his wife, the children born to such a wife shall be considered pure through the *patiyā* of their father (i.e. a separate *patiyā* for the children is not necessary).

§ 39

If someone¹⁹ from the Wearers of the Sacred Thread has committed sexual intercourse with a blood (*hadnātā*) and commensal relative, (and if he) is degraded and mixed with a Non-enslavable Śūdra Caste because of that guilt, (and then if) the wife (of that man) has (also) been degraded, the children born to that man shall not receive the Sacred Thread. They shall remain in a Non-enslavable Śūdra caste. Water may be accepted (from their hands).

§ 40

Anyone from the Wearers of the Sacred Thread other than Brahmin may wash the feet of a daughter born to him from a girl or widow of a matching caste whom he has taken as a wife, and drink the washing water.²⁰ Any man who washes the hands of a daughter born to him from a wife whose hands he cannot consume cooked rice or any other tiffin (*khājā*) from and (then) drinks the washing water shall not be considered guilty. Whoever drinks used feet-washing water, punish with a fine of Rs 2 1/2 (and) arrange for an expiation (*prāyaścīt*) after having charged a fee of eight *ānā*. If anybody

¹⁹ Ms B/C: "man, husband" (*lognyā*).

²⁰ *goḍādhōi* (or *goḍdhuāi*) is the ritual washing of the bride's feet during the wedding.

from the Wearers of the Sacred Thread washes the feet of a daughter born to him from a prostitute (or) or a wife of the Alcohol Drinkers, either Non-enslavable (or) Enslavable, but Water-acceptable, and (then) drinks the washing water, punish him with a fine of Rs 5 and grant *patiyā* after collecting a fee (*godāna*) of one rupee.

§ 41

The father, elder brother, younger brother, friends (and) relatives may wash the hands of the bride and the bridegroom during the wedding of a daughter born to an Upādhyāya Brahmin from an Upādhyāya widow, or from a girl of the Wearers of the Sacred Thread who has been taken as a wife with the (proper) rites of marriage or who has simply been taken (i.e. without any marriage ritual). If such relatives and friends wash the hands (of the bride and bridegroom) and (then) drink the washing water, they are considered guilty. Those who wash the feet and drink the washing water, punish with a fine of Rs 2 1/2, (and) arrange for an expiation (*prāyaścīt*) after having charged a fee (*godāna*) of eight *ānā*. If someone from the Wearers of the Sacred Thread washes the feet of a daughter born to him from a prostitute (or) a wife of the caste of the Alcohol Drinkers, either Non-enslavable (or) Enslavable, but Water-acceptable, and drinks the washing water, punish him with a fine of Rs 5 and grant *prāyaścīt* after collecting a fee (*godāna*) of one rupee.

§ 42

A Brahmin may receive the *ṭikā* and accept *sidhā*²¹ (and) *dakṣiṇā*, given either with a ritual vow (*saṃkalpa*) or just like that (i.e. without *saṃkalpa*) from the hands of (persons belonging) to the Water-acceptable Castes, including the Wearers of the Sacred Thread. He may also accept ritual gifts or other gifts of money, food, etc. from such persons. Neither the giver nor the taker shall be considered guilty. (However), a Brahmin may not receive any *ṭikā* and accept *sidhā* (and) *dakṣiṇā*, given either with a ritual vow (*saṃkalpa*) or just like that (i.e. without *saṃkalpa*) from the hands of (persons belonging) to the Impure-but-Touchable Castes and Untouchable Castes. If he takes such (gifts), confiscate the gifts (*vigo*) and punish with a fine of Rs 20. If the rupees are not paid, imprison him according to the *Ain*. Both the giver and taker shall not be considered guilty if anybody from the

21 A plate of uncooked rice, lentils, vegetables, salt, turmeric powder, ghee, etc.

Water-acceptable Castes offers pure (*cokho*) things such as pure food grains, *dakṣiṇā*, land and slaves (lit. body) without performing *saṃkalpa* and without putting water (on the hands, as it is done in a *saṃkalpa*).

§ 43

If anybody from the Water-acceptable Castes receives the *ṭikā* from the hands of somebody from the Water-unacceptable (i.e.) Untouchable Castes, punish both the giver of the *ṭikā* and the taker of the *ṭikā* with a fine of Rs 5 each. Grant *patiyā* to the higher-caste person who receives the *ṭikā* after collecting a fee (*godāna*) of eight *ānā*.

§ 44

Imprison anybody who hides his caste (and) falsely claims to belong to the Upādhyāya (caste), and (then) lets others take water with which his feet have been washed. (The term is) six months if he is a Jaiṣī, and eighteen months if he belongs to any other caste. Do not release such a person before the end of their term of imprisonment, even if they offer money as a compensation—unless he pays double (the amount of the equivalent of the punishment), in which case release him.

§ 45

Imprison anybody who hides his caste (and) falsely claims to belong to the Upādhyāya (caste), (and then) who takes the *ṭikā* and lets others worship him. (The term is) four months if he is a Jaiṣī, and twelve months if he belongs to any other caste. Release such persons according to the *Ain* if they pay the rupees (equivalent to the punishment).

§ 46

If someone from the Wearers of the Sacred Thread consumes cooked rice or other food either after sunset, (though) it had been cooked in the kitchen in the morning, or after sunrise, (though) it had been cooked the previous evening, regardless of whether the cook had stayed in the kitchen or not, such a person need not obtain *patiyā* or be fined if the kitchen has not been touched by anybody from the Rice-unacceptable (castes). He shall remain in his own caste.

§ 47

If any person eats cooked rice cooked with milk (*khir*) that was prepared in a cowshed or left overnight (*vāsi*), he need not obtain *patiyā* nor can he be fined if it had been brought in after cooking it separately by people of his same caste without²² letting it be touched by somebody whose hands food (i.e. cooked rice) can (not) be taken from or (who cannot be) touched. He shall remain in his own caste.

§ 48

If anybody accepts cooked rice touched by somebody from the Wearers of the Sacred Thread (or) prepared by a person whose hands others can take cooked rice from (and) who is wearing a shirt (*labedā*) and trousers (*surūvāl*),²³ (or) if he himself accepts (cooked rice) wearing a shirt and trousers containing no leather, neither the cook nor the eater need to obtain *patiyā* or be fined. They shall remain in their own caste.

§ 49

On Saturday the first day of the bright day of the (lunar month) Pausa of 1917 Vikrama (Era), the Bhārādāri Kausal²⁴ made the following decision: "Because people from the Meciya caste in the Tarai district of Morang in the kingdom of Gorkhā eat (the meat) of buffaloes, pigs and chickens, Indians (*mogālāniyā*) (from higher castes) are not to take water from their hands, nor shall people from our kingdom take water (offered) by (someone from) the Meciya caste. Thus, there was a meeting of the Bhārādāri Kausal (discussing) whether water from the Meciya caste can be accepted (by someone from a higher caste). The Bhārādāri Kausal has decided that in our country (high-caste people can accept) water from (the hands of) Nevārs, Magars, Gurungs, Bhoṭyās (i.e. Tibetans) and Lāpcyās (Lepchas) who eat the meat of buffaloes, pigs, chickens, cows and elephants, that previously water was accepted from (the hands of) the Meciya caste as well, (and since) their children previously (also) used to work as slaves in (everything)—from (common households) to the (Royal) Palace—, moreover, (since) they (i.e. the Meciya) do not accept water from the hands of (somebody of) Water-

22 The translation follows MsC, which inserts *na*.

23 For Twice-born, it is traditionally prescribed to wear a *dhoti* during meals.

24 A council of noblemen, ministers, etc. established by Jaṅga Bahādur Rāṇā; see MA 1854-Ed1, p. 4ff. of the preface.

unacceptable, Untouchable Castes and Muslim castes (and) that they respect Śiva as (their) God and thus belong to the Śivamārgi caste, (therefore), water can be accepted from their hands (even by members of high castes).” From today on, (members from high castes may) accept water from the hands of somebody from the Mecyā caste. Punish anybody from any Parvātyā (Parbatīyā) or Thāru caste²⁵ who does not accept water from the Mecyās with a fine of Rs 5, and imprison him according to the *Ain* if he does not pay the fine.

§ 50

From now on, all (people belonging to the) Khas caste who are Wearers of the Sacred Thread have been granted the title (*ilakāp*) of Chetri. In all documents (*kāgajpatra*), their personal names shall be written first, followed by the clan (*thar*) name and then the title of Chetri.

§ 51

If a woman who was to be sentenced to life imprisonment because of killing somebody without any right (*vehak*) to do so (e.g. self-defence) is granted *patiyā*, (or) a man who belongs to a caste which cannot be punished with capital punishment (but) who has confessed before a court (*adālat*), police station (*thāna*) or local government office (*amāl*) that he is guilty of murdering another person is granted *patiyā*—but ostracised with respect to water only, yet not branded—, punish the chief of the court (*adālat*) (or) of the police station (*thāna*), (or) the *bhārdār* of any district headquarters, (or) other judicial officers such as *diṭṭhā*, *bicāri* (or) *amālī*, *dvare* (royal guard), *mukhiyā* (subordinate civil functionary) (or) *jimmāvāl*²⁶ who helped the man/woman obtain *patiyā*, or the Dharmādhikāra who granted *patiyā*, with a fine of Rs 50 if he has not taken water or cooked rice from the hands of such a guilty (person). If he has taken only water, punish him with a fine of Rs 60 and grant *patiyā* for water. If he has consumed cooked rice, punish him with a fine of Rs 50 (and) release him after having degraded him (to a lower caste and) removed his Sacred Thread if he belongs to the Wearers of the Sacred Thread; if he does not belong to the Wearers of the Sacred Thread, simply degrade him. If he accepts cooked rice (from the hands of the guilty person) (and) lets other commensal relatives ignorantly accept cooked rice (from his

25 I.e. all people from the Kathmandu valley and the hill regions.

26 Headman ranked below *mukhiyār*.

own hands), confiscate his share of ancestral property according to the *Ain*, (and) release him after having degraded him (to a lower caste and) having removed his Sacred Thread if he belongs to a Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him. If persons present at the court of justice (*kacahari*) have knowingly accepted cooked rice (and) water from the hands of (such a guilty person) because their chief (*hākim*) himself had done so, punish them with a fine of Rs 30 if they have consumed cooked rice and Rs 20 if they have taken water. Arrange for the granting of *patiyā* for cooked rice (and) water. If the chief had not granted *patiyā* (to the murderer), (and) they themselves have knowingly taken water (from him, i.e. the *hākim*), punish the main person (i.e. the ringleader) with a fine of Rs 50 (and) the others with a fine of Rs 20 each. Grant *patiyā* for water. If they have (knowingly) consumed cooked rice, punish the main person with a fine of Rs 50 (and) release him after having degraded him (to a lower caste and) after having removed his Sacred Thread if he belongs to the Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him. If he has caused other persons to ignorantly accept cooked rice (and) water from his hands, confiscate his share of ancestral property according to the *Ain*, (and) release him after having degraded him (to a lower caste and) after having removed his Sacred Thread if he belongs to a Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him. If other persons have knowingly accepted (cooked rice and water from his hands), they do not lose their caste because the chief guilty person has already been punished. (However,) punish (each of them) with a fine of Rs 30 (and) grant *patiyā* for cooked rice. For persons who have ignorantly accepted cooked rice (and) water (from the hands of the guilty person) grant *patiyā* for cooked rice (and) water. After the person who has been sentenced to life imprisonment is arrested, imprison him for life according to the *Ain*.

§ 52

If anybody accuses somebody else of having committed an act which is punishable through degradation (of caste status) and (ostracism with respect to) cooked rice, but the accused has not confessed this, and in the meantime another person accepts cooked rice (and) water from his hands, and if afterwards the accused confesses his guilt, punish the person who had accepted cooked rice or water from his hands before such a confession with a

fine of Rs 30 if he has consumed cooked rice (and) of Rs 10 if he has taken water (only). Grant *patiyā*.

§ 53

If somebody whose head has been shaved as a result of committing a crime punishable through shaving (and) who has also been ostracised with respect to water (and) cooked rice (touched by him) steals under any pretext (*dhātī*) the printed form (*lifā*) of the Dharmādhikārīn (used for issuing writs of *patiyā*) and forges such a writ (and then) presents it (to others), (and) if another person believes the certificate of rehabilitation to be authentic (and) takes cooked rice (and) water (from the forgerer), (then) he (i.e. the “taker”) does not lose his caste status because it is assumed that he had consumed (cooked rice and water) without understanding the (authenticity of the writ of) *patiyā* which had been presented (to him). Punish (him) with a fine of Rs 20 if he has accepted cooked rice from the hands of any person ostracised with respect to cooked rice, and Rs 10 if he has taken water from the hands of any person ostracised with respect to water. Arrange for the granting of *patiyā* (to him).

§ 54

If (a) any man or woman from the Wearers of the Sacred Thread below the age of twelve has been initiated (*karma calyākā*) and has taken some unacceptable (i.e. impure) food (*abhakṣ*) which causes the loss of caste (status), (and) accordingly was ostracised with respect to cooked rice, beget the children (and) let (them) die without obtaining *patiyā*. If their funeral rites (*kājkryā*) were performed after obtaining rehabilitation for ritual purification (*kryāsuddhako patiyā*), (and) if (b) their children or any other relative comes complaining, “This person was ostracised with respect to cooked rice for eating unacceptable (i.e. impure) food (*abhakṣ*) that caused the loss of his caste status, at a time when he was under age twelve. He died before obtaining *patiyā*, and his funeral rites were performed after obtaining *kryāsuddhako patiyā*. His children cannot be deprived of their caste just because of this (small crime). (Thus,) cooked rice shall be acceptable (from them).” (And) if (c) the commensal relatives, respective persons, and local officers (*amāli*) who know of this fact certify that the parents (of the children) had eaten (*abhakṣ*) when they were children under age twelve, (but) not after the age of twelve, (in such a case) accept that statement. Since

the parents had obtained *kṛyāśuddhako patiyā*, no other *patiyā* is necessary. (The children) shall become pure (*śuddha*) after their initiation (*vratabandha*), wedding and other life-cycle rituals (*karma*) (are performed) according to their caste (customs). They shall not lose their caste, and cooked rice can be taken (from their hands).

§ 55

If any (former) chief officer (*hākim*) had ostracised, with respect to water, anybody from a Wearers of the Sacred Thread Caste down to a Pure, Water-acceptable Caste, because such a person had accepted cooked rice (and) water from the hands of somebody from the Untouchable Castes, and (*sc.* or) committed sexual relations (with a woman from an Untouchable Caste), and if the (following) officers (*hākim*, *diṭṭhā*, *bicari*) of any government office (*aḍā*), (military) district office (*gaudā*), court (*adālat*), police station (*thāna*) (or) local office (*amāl*), (or) the head (*amāli*, *dvāre*) of any local office (*amāl*), fraudulently or by hiding previous documents relating to the confession in such cases, arranges for the signing of a royal order (or) an administrative order, notice (or) a certificate of rehabilitation, falsely representing that water (from the hands of the guilty person) can be accepted, or falsely says (i.e.) without actually referring the matter to the government, "I have referred the matter to higher authorities and obtained an order (accordingly)," and if subsequent inquiries confirm that the previous chief officer etc. had actually obtained a confession and ordered that the water (from the hands of such a guilty person) shall not be accepted, (in such a case) release such a chief officer (or) head (*dvāryā* = *dvāre*), who (said) that water can be accepted, after punishing him with a fine of Rs 500 only. If he did not accept water from the hands of such a (guilty person), he shall not lose his caste. If he has taken water from the hands of such (guilty person), release him after punishing him with a fine of Rs 500 and taking off his Sacred Thread if he belongs to the Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him that after ostracising him with respect to cooked rice (and) water. If he does not pay (all) the rupees, imprison him at the rate of one month for every 5 Rs until (the fine) paid off in full. If the chief officer, who (said) that water can be accepted (from the guilty person), has not taken water (from such a person), but if it is proven that he has eaten (from the hands) of other persons who had had contaminating contact (with the guilty person), his caste remains. Grant *patiyā* (to him).

§ 56

If anybody knowingly accepts cooked rice (and) water from the hands of any person who has been sentenced to life imprisonment (or) who has been degraded (to a lower caste) by giving him water to drink from the hands of somebody from a Water-unacceptable Caste (or) who has accepted cooked rice (and) water from the hands of somebody from a Water-unacceptable Caste, and also committed sexual intercourse (with such a person), and if (the person who has accepted cooked rice and water) from the hands of such (a guilty person) has offered cooked rice (and) water to other innocent persons, (in such a case) confiscate his share of ancestral property according to the *Ain* and release him after mixing him with the same caste (of the guilty person). If he did not offer other innocent persons cooked rice (and) water, do not confiscate his share of ancestral property and release him after mixing him with the same caste of such (guilty person). Grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*) to his commensal relatives and other people who have ignorantly accepted cooked rice (and) water from his hands. There is no need for punishment (*daṇḍa*).

§ 57

If any chief officer (*hākim*) or local officer (*amāli*) or Dharmādhikārin knowingly grants an order or certificate of rehabilitation to any person who has been sentenced to life imprisonment (or) who has been degraded (to a lower caste) by giving him water to drink from the hands of somebody from a Water-unacceptable Caste (or) who has accepted cooked rice (and) water from the hands of somebody from a Water-unacceptable Caste and also committed sexual intercourse (with such a person), then such an officer (*hākim*, *amāli*) or Dharmādhikārin shall not lose his caste if he only issued an order or certificate of rehabilitation and has not accepted cooked rice (and) water from the hands of such (a guilty person). Release him after punishing him with a fine of Rs 500. If such an officer or Dharmādhikārin has issued an order or certificate of rehabilitation (and) accepted cooked rice (and) water from the hands of such (a guilty person) and then offered the same to other persons, confiscate his share of ancestral property according to the *Ain* and release him after mixing him with the same caste (of the guilty person). If he did not offer other innocent persons cooked rice (and) water, do not confiscate his share of ancestral property and release him after mixing him with the same caste of such (a guilty person). Grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*) to his commensal relatives and other

people who have ignorantly accepted cooked rice (and) water from his hands. There is no need for punishment. If the person who had been sentenced to life imprisonment is (caught and) arrested, imprison him for life.

§ 58

If anybody unknowingly accepts cooked rice (and) water from the hands of a person who has been sentenced to life imprisonment (or) who has been degraded (to a lower caste) by giving him water to drink from the hands of somebody from a Water-unacceptable Caste (or) who has taken cooked rice (and) water from the hands of somebody from a Water-unacceptable Caste and also committed sexual intercourse (with such a person), yet did not know that accepting cooked rice (and) water from his hands is punishable by loss of caste, (in such a case) grant him rehabilitation on the grounds of ignorance (*bhor-ko patiyā*) because consuming (food) without knowing (about its contamination) is considered "ignorance" (*bhor*). There is no need for punishment. If the person who had been sentenced to life imprisonment offered cooked rice (and) water from his hands to another person, (thus) deceiving him, imprison him for life.

§ 59

A person who has knowingly committed sexual intercourse with a woman from Impure-but-Touchable Castes (and) afterwards takes cooked rice (and) water (from her hands), or a person who knowingly accepts cooked rice (and) water (from her hands) and nothing more (i.e. without committing sexual intercourse), and does not report that he had taken cooked rice (and) water (from her hands) whether committing sexual intercourse or not, and (then) commits sexual intercourse with his other (legally) married wife or a concubine (or) a prostitute, or offers them cooked rice (and) water from his hands, and if such a woman had unknowingly committed sexual intercourse with her husband and does not become pregnant or has accepted cooked rice (and) water (from his hands), (in such a case) arrange for the granting of *patiyā* for cooked rice (and) water. She shall not lose her caste. If she becomes pregnant, cooked rice shall not be accepted (from her hands). Grant *patiyā* for water only. Only water can be accepted from the hands of children born later to such a person, not cooked rice. Such children, if they belong to the Wearers of the Sacred Thread, including Brahmins, cannot receive the Sacred Thread, they become (members of the) Non-enslavable Śūdra Caste.

The children of the Non-enslavable Alcohol-Drinker Castes become (members of the) Enslavable Alcohol-Drinker Castes. If the wife had knowledge that her husband had accepted cooked rice (and) water from such a woman (from an Untouchable Caste) and (afterwards) has sexual intercourse (with him) or has avoided sexual intercourse (with him) yet accepted cooked rice (and) water from his hands, but could not report this fact out of shame and kept it secret, and if she has let him offer cooked rice (and) water from his hands to his commensal relatives (*bhatāhā*), (in such a case) punish her with a fine of Rs 25 for having let others accept cooked rice (and) water from his hands even though (she was) aware of the wrongdoing. Grant *patiyā* on the grounds of ignorance to all the persons who ignorantly (accepted cooked rice and water from the hands of the guilty person).

§ 60

If a person from any of the pure (*cokhā*) castes down to Water-acceptable (castes), including Wearers of the Sacred Thread, commits sexual intercourse (and) accepts cooked rice (and) water from the hands of somebody from the Impure-but-Touchable and (*sc.* or) Untouchable Castes, (or) from someone who had been removed from his (previous) caste, and if another person accepts cooked rice (and) water from such a person and has (therefore) been ostracised with respect to cooked rice (and) water, (and) because a confession or admission of (his) guilt was (later) obtained from him or her, or even before such a confession or statement was obtained, (and) if he or she has orally reported the matter on his or her own initiative, saying "We (*sc.* I) have committed sexual intercourse with such a person and have also taken cooked rice (and) water," and if (then) any officer (or) functionary (*hākim*, *ḍiṭṭhā*, *bicāri*, *amāli*, *dvāryā*, *ṭhekadār*, *ijārādār*, *thari*, *mukhiyā*, *jimmāvāl*, *mijhāra*, *gaurūm*, *jeṭhā*, *būḍhā*, *chaudhari*, *mukadam*, *thāni* or *tharī*) or (other) respective person (*bhalādmī*), who is from the same place (as the guilty person), or who comes from another (area) but knows that such a person has been ostracised with respect to cooked rice (and) water; (if such a person) does not examine the confession (statement) or does not understand it or ignores the fact that the person in question has already confessed his or her guilt and has been ostracised with respect to cooked rice (and) water, or hides such a confession (statement) out of favouritism or intent to fraud, or arranges to have a royal order, administrative order, notice (or) certificate of rehabilitation falsely declare that water (from the hands of the guilty person) can be accepted, or falsely says (*i.e.*) without actually referring the matter to

the government, "I have referred the matter to higher authorities and obtained an order," and if the officer has lifted the ostracism with respect to cooked rice (and) water after granting *patiyā* saying "It happened out of ignorance", and if the case is later discussed in court (*kacahari*) and it is decided that the confession (statement) that had previously been obtained is valid, or that the ostracism with respect to cooked rice (and) water is valid because of his oral confession and that (the guilty person, therefore,) should remain ostracised with respect to cooked rice (and) water; then confiscate the share of ancestral property of the main functionary who has lifted the ostracism according to the *Ain*, (and) remove his Sacred Thread if he belongs to the Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him (and) release him (after) branding (his face) with one (i.e. the initial) letter of (the name of the degraded) caste if he has lifted the ostracism (of the guilty person) with respect to cooked rice (and) water, (and) knowingly accepted cooked rice (and) water from the hands of such (a guilty person), or from the hands of a person who has done likewise, and (then) offered cooked rice (and) water to family members and other commensal relatives who ignorantly accepted it.

If (such an officer or functionary) has taken cooked rice (and) water (from the hands of the guilty person) and has, in return, not offered cooked rice (and) water from his hands to members of his family and other commensal relatives, do not confiscate his share of ancestral property and release him after mixing him with the same caste of such (a guilty person and) do not brand him with one (i.e. the initial) letter (of the degraded caste), (but) degrade him (to a lower caste) having removed his Sacred Thread if he belongs to a Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him. If (such officers or functionaries) have not knowingly accepted cooked rice (and) water (from the hands of such a guilty person), or from the hands of a person who has accepted cooked rice (and) water from such (a guilty person), punish them (each?) with a fine of Rs 500. They do not lose their caste.

If any officer (*amāli*, *hākim*) who hears about and is (thereby) informed about a case in which his predecessor had lifted (an order of) ostracism with respect to cooked rice (and) water, (and then), instead of arresting (the predecessor) and (thus) serving justice (*nisāph*) later allows, because of negligence or favouritism, (other persons) to consume cooked rice (and) water in similar cases, punish him (i.e. the officer) and other persons who have accepted cooked rice (and) water (from the hands of the guilty person), because the predecessor had allowed them to do so, with a fine of Rs 250

each (and) grant *patiyā*. They do not lose their caste. For other (officers), including *thari*, *mukhiyā*, *jimmāvāls*, and respective persons present in court (*kacahari*) who signed a statement saying that cooked rice (and) water can be taken from the hands of such (a guilty person) and have themselves taken cooked rice (and) water from his hands, maintaining though that (the guilty person) had previously been ostracised with respect to cooked rice (and) water, no action should be taken against the officer or functionary for having issued an order (lifting the ostracism) or granting *patiyā*. Although (the *tharis*, etc.) should have maintained that (the guilty person) be ostracised with respect to cooked rice (and) water even though the officer or functionary had issued an order lifting the ostracism, they shall not lose their caste. Any persons who after seeing the certificate of rehabilitation have taken cooked rice (and) water from their hands, or from the hands of other persons who have done so, shall not lose their caste. Punish each *mukhiyā*, *thari*, *jimmāvāl*, *mijhāra*, *gourūng*, *jethā*, *būdhā*, *chaudhari*, *mahatau*, *ṭhekadār*, *ijārādār*, *thāni* and/or *tharī* with a fine of Rs 100 each if they have issued and signed the statement, or with Rs 50 each if they have only orally stated but not signed that it is allowed to accept cooked rice (and) water (from such guilty persons). Punish persons who have written a statement (saying) that it is only orally said that it is allowed to accept cooked rice (and) water (from such guilty persons) with a fine of Rs 10, and grant *patiyā* for cooked rice (and) water. They shall not lose their caste. If persons who have either issued or signed a document fraudulently saying "Cooked rice (and) water may be taken from the hands of such persons", (but) have not yet taken cooked rice (and) water (from the hands of the guilty person), and if the matter is reported in the meantime, punish the person who had the document issued with a fine of Rs 100, (and) the person who wrote it with a fine of Rs 50, and any other persons who were present in court (on that occasion) with a fine of Rs 10 each. If any person has unknowingly taken cooked rice (and) water (from the hands of the guilty person), grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*). There is no need for punishment. Imprison any person who does not pay the imposed fine according to the *Ain*.

§ 61²⁷

If a person from any of the pure (*cokhā*) castes down to the Water-acceptable (Castes), including Wearers of the Sacred Thread, commits sexual

27 This paragraph is almost identical with paragraph 60 except that it deals with bribery rather than favouritism, etc.

intercourse (and) accepts cooked rice (and) water from the hands of somebody from the Impure-but-Touchable and (*sc.* or) Untouchable Castes (or) was removed from his (previous) caste, and if another person accepts cooked rice (and) water from such a person and has (therefore) been ostracised with respect to cooked rice (and) water, because a confession or admission of his guilt was obtained from him or her, or even before such a confession (statement) was obtained (and) if he or she has orally reported the matter on his or her own initiative, saying "We have committed sexual intercourse with such a person and have also accepted cooked rice (and) water;" and (then) if any officer (or) functionary (*hākim*, *ḍiṭṭhā*, *bicāri*, *amāli*, *dvāryā*, *ṭhekadār*, *ijārādār*, *thari*, *mukhiyā*, *jimmāvāl*, *mijhāra*, *gaurūng*, *chaudhari*, *mukadam*, *thāni* and/or *tharī*) or (other) respective person (*bhalādmī*) who is from the same place (as the guilty person) or who has come from another (area) but knows that such a person has been ostracised with respect to cooked rice (and) water does not examine the confession (statement), or does not understand it or takes bribes, and if the officer has lifted the ostracism with respect to cooked rice (and) water after granting *patiyā*, saying "It happened out of ignorance" and if the case is later discussed in court (*kacaharī*) and it is decided that the confession (statement) that had previously been obtained is valid, and that (the guilty person) should remain ostracised with respect to cooked rice (and) water, then confiscate the amount of the bribery (and) share of ancestral property of (each of) the main functionaries who has lifted the ostracism according to the *Ain*, (and) remove his Sacred Thread if he belongs to the Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him (and) release him after branding (his face) with one (i.e. the initial) letter of (the name of the degraded) caste on the left cheek if he has lifted the ostracism (of the guilty person) with respect to cooked rice (and) water, knowingly accepted cooked rice (and) water from the hands of such (a guilty person), or from the hands of a person who has done likewise, and (then) offered cooked rice (and) water to innocent family members and other commensal relatives.

If (such an officer or functionary) has taken cooked rice (and) water (from the hands of the guilty person), and has not, in return, offered cooked rice (and) water from his hands to members of his family and other commensal relatives, the branding (of his face) with an (initial) letter (of the degraded caste) and confiscation of his share of ancestral property shall not be done. Release him after mixing him with the same caste of such (a guilty person) and confiscating the amount of the bribery, (and) after having

removed his Sacred Thread if he belongs to a Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him. If (such officers or functionaries) have not accepted cooked rice (and) water (from the hands of such a guilty person), or from the hands of a person who has accepted cooked rice (and) water from such (a guilty person), punish (each) with a fine of Rs 500 after confiscating the amount of the bribery. They do not lose their caste.

If any officer (*amāli*, *hākīm*) hears about and is (thereby) informed about any case in which his predecessor had lifted (an order of) ostracism with respect to cooked rice (and) water, (and then) instead of arresting (the predecessor) and thus serving justice (*nisāph*) later allows, because of negligence or favouritism, (other persons) to accept consume cooked rice (and) water in similar cases, punish him (i.e. the officer) and other persons who have accepted cooked rice (and) water (from the hands of the guilty person), because the predecessor had allowed them to do so, with a fine of Rs 250 each (and) grant *patiyā* after confiscating the amount of the bribery. They do not lose their caste. Other (officers), including *thari*, *mukhiyā*, *jimmāvāls*, and respectable persons present in court (*kacahari*) who signed a statement saying that cooked rice (and) water can be taken from the hands of such (a guilty person), and have themselves taken cooked rice (and) water from his hands, or who allow (it to occur) without first preparing a document saying that cooked rice (and) water can be taken from such persons, maintaining that though (the guilty person) had previously been ostracised with respect to cooked rice (and) water, no action should be taken against the officer or functionary for having issued an order (lifting the ostracism) or for granting of *patiyā*. Although (the *tharis*, etc.) should have maintained that (the guilty person) be ostracised with respect to cooked rice (and) water even though the officer or functionary had issued an order lifting the ostracism, they shall not lose their caste. Any persons who after seeing the certificate of rehabilitation have taken cooked rice (and) water from their hands, or from the hands of other persons who have done likewise, shall not lose their caste. If they have issued and signed the confession statement, punish each *mukhiyā*, *thari*, *jimmāvāl*, *mijhāra*, *gourūng*, *chaudhari*, *mahatau*, *ṭhekadār*, *ijārā-dār*, *thāni* and/or *tharī* with a fine of Rs 100 after confiscating the amount of the bribery. If they have only orally stated but not signed (a statement) that it is allowed to accept cooked rice (and) water (from such guilty persons), punish each (of the abuser) with a fine of Rs 50 each after confiscating the amount of bribery. Punish the (respective) persons in court who have written a statement (saying) that it is only orally said that it is allowed to accept

cooked rice (and) water (from such guilty persons) with a fine of Rs 10, and grant *patiyā* with respect for cooked rice (and) water. They shall not lose their caste. If persons who have either issued or signed a document fraudulently saying "Cooked rice (and) water may be taken from the hands of such persons", (but) have not yet taken cooked rice (and) water (from the hands of the guilty person), and if the matter is reported in the meantime, punish the person who had the document issued with a fine of Rs 100 after confiscating the amount of the bribery, (and) the person who wrote it with a fine of Rs 50 after confiscating the amount of the bribery, and the remaining persons who were present in court (on that occasion) with a fine of Rs 10 each after confiscating the amount of the bribery. If any person has unknowingly taken cooked rice (and) water (from the hands of the guilty person), grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*).

§ 62

If any woman from the Four Varṇas and Thirty-six Castes, including the Wearers of the Sacred Thread, admits that she had committed sexual intercourse with a man from a higher or lower caste or a caste equivalent to her own (status), or with a man from an Impure-but-Touchable (or) Untouchable Caste, but inquiries prove that there had been no actual sexual intercourse, or if the accused person dies without confessing his guilt but the woman still confesses before the court (*kacahari*) and makes a statement saying that she has committed sexual intercourse with such a man, (in such a case) the woman shall be considered a self-confessed offender as defined in the *Ain* (in the chapter) "On Self-Confession" (*mukha-patitako*).²⁸ A commensal relative of such a woman who takes (cooked rice and water) from her hands before the case is filed in court needs no granting of *patiyā*. He or she shall remain in his caste. But if he or she has knowingly taken cooked rice (and) water from the hands of such a woman after the case had been filed in court (*adālat*), police station (*thāna*) or local office (*amāl*), and if such woman has signed a confession (statement), he or she shall not be granted *patiyā*; he or she shall (be degraded) to the same caste (as the woman). In the case of ignorance, grant *patiyā*.

²⁸ MA 1854/111.

§ 63

If anybody accepts cooked rice (and) water from the hands of any person who had confessed to having committed any offence (which is punishable through ostracism with respect to cooked rice and water), and if the guilty person could get *patiyā* (for such an offence), thereby permitting the taking of cooked rice (and) water from his hands, punish the person who knowingly takes cooked rice (and) water from the hands of the guilty person with a fine of Rs 30 if he has taken cooked rice, and with Rs 10 if he has taken water. Grant *patiyā* for cooked rice (and) water because the instigator gets *patiyā*. If the guilty person could not get *patiyā* (for such an offence), the person who knowingly takes cooked rice (and) water from his hands cannot get *patiyā*. Release him after mixing him with the caste of the guilty person. If he was not informed (about the guilt, i.e.), (it is a) case of ignorance; grant *patiyā*. There is no need for punishment.

§ 64

If any man or woman has knowingly committed sexual intercourse with somebody from a Water-acceptable Caste, and has knowingly taken cooked rice (and) water from the hands of (a person) of such a caste, and if the matter is reported (to the court, etc.), and the guilty person has been degraded (to the lower caste), and persons who have ignorantly (taken cooked rice and water from his or her hands) have undergone expiation (*prāyaścīt*) according to the *Ain*, and if anybody because of favouritism helps the person who has been ostracised with respect to cooked rice (and) water to have the ostracism lifted and succeeds in doing so, and himself takes cooked rice (and) water from the hands of the guilty person, punish the main person who took the initiative with a fine of Rs 500, and remove his Sacred Thread if he belongs to the Wearers of the Sacred Thread. If he does not belong to the Wearers of the Sacred Thread, simply degrade him (and) release him. If such a person has not accepted cooked rice (and) water (from the hands of the guilty person) but has persuaded others to do so, punish him with a fine of Rs 500. He does not lose his caste. There is no need for punishment if any person has taken (cooked rice and water from the hands of the guilty person), because a government officer (*hākim*, *amāli*) has allowed it without knowing the facts. Grant rehabilitation on the grounds of ignorance (*bhor-ko patiyā*). If a confession (statement) has been prepared and signed, but other persons have not yet taken cooked rice (and) water (from the hands of the guilty person), punish the government officer who wanted to allow, out of favourit-

ism, the acceptance of cooked rice (and) water (from such guilty persons) with a fine of Rs 100, (and) the local functionaries (*thari*, *mukhiyā*, *jinnā-vāl*) present in court with a fine of (Rs) 25, (and) the remaining gentlemen (*bhalā mānis*) with a fine of Rs 20 each. If the government officer has only prepared the confession document, but other persons have not yet taken cooked rice (and) water (from the hands of the guilty person), punish the other persons who accepted cooked rice (and) water from the hands of such (a guilty person) believing that cooked rice (and) water can be taken from this person without first knowing the facts with a fine of Rs 10 each. Grant *patiyā* according to the *Ain*. If the rupees are not paid, imprison him according to the *Ain*.

§ 65

If anyone receives the *ṭikā* or any ritual gifts (*sidhā*) of uncooked foodstuff (including a plate of rice, lentils, vegetables, etc.) (and/or) money (*dakṣiṇā*), etc. with a ritual vow (*saṃkalpa*) by putting water (on the hands²⁹), from the hands of a person who has been sentenced to life imprisonment, irrespective of whether or not an (initial) letter (of the degraded caste) has been branded on him, confiscate the gifts (*vigo*) and punish with a fine of Rs 20, (and) grant *patiyā* after charging 4 *ānā*. If the rupees are not paid, imprison him according to the *Ain*. The taker shall not be considered guilty if anybody offers pure (*cokho*) things, such as pure food grains, *dakṣiṇā*, land and human slaves (lit. "bodies") without performing *saṃkalpa* and without putting water (on the hands, as it is done in a *saṃkalpa*).

§ 66

If a woman from the Four Varṇas and Thirty-six Castes is accused and arrested because of committing incest with a blood relative, or for having sexual intercourse with a person who is not a relative (*nātā*) but belongs to a higher, equal, or lower caste, and if, after interrogations at any government office (*aḍā*), court (*adālat*), police station (*thānā*) or local office (*amāl*) she says, "That person is the first to commit sexual intercourse with me," and if such a person is arrested and interrogated and confesses his guilt, act according to the *Ain*. If the woman has accused any person who has gone to a distant (place or) foreign country (*deśa*, *paradeśa*), summon such a person by letter or through a messenger if he is (still) in the (foreign) country, and

29 Cf. § 42.

(then) pronounce judgement. If such a person is not living in the (foreign) country, and if any of his younger or older brothers (*dāju-bhai*) or other relatives (*nātā*) etc. approaches the court (*kacaharī*) with a statement saying, "We have met such and such a person at such and such a place, and told him: You have been accused by such and such a woman as being the first person to commit sexual intercourse with her. If you are not guilty, go back and state your case. If you have committed sexual intercourse with that woman, confess that fact, and we shall arrange for *patiyā* issued in your name according to the *Ain*. The man replied, It is true that I have committed sexual intercourse with that woman. If she has made a statement saying that I am the first person to commit (illicit) sexual intercourse with her, I cannot state anything in my defence. My house and other property are there, do whatever is necessary according to the *Ain*. Whoever has ignorantly taken (cooked rice and water) from our hands should get *patiyā* issued in my name. But I will not go back there (i.e. to my country). We had interrogated him and recorded his statement, taking a witness. If it is proven that he had not made such a statement, and that our evidence is false and baseless, we are ready to bear any penalty according to the *Ain*," (in such a case) file the statement, confiscate the guilty person's share of his ancestral property, (taking it from) his hands, according to the *Ain*. And if necessary, grant *patiyā* issued in the name of the persons who have ignorantly taken cooked rice (and) water from the hands of the guilty person. If the person who has been accused comes back and files a complaint, saying "I have not committed sexual intercourse with such a woman and did not make the statements mentioned above to those persons when we met; they have caused my property (to be) confiscated and *patiyā* (to be) wrongly issued in my name," hold a hearing for the accused and (also) for those persons who had acted as his representatives and recorded a statement. If it is proven in court that those persons had recorded a false and fictive statement, thereby having the property of the accused confiscated and *patiyā* issued in his name, confiscate the shares of ancestral property of such persons according to the *Ain*, and imprison them for two years. If money for the time (of imprisonment) is given, take it. They do not lose their caste. The property confiscated from them shall be used to refund the property confiscated from the person who had earlier been wrongfully charged, and only excess shall be given to the government. If the money is not sufficient, it cannot be (additionally) claimed. Don't take any fees (*dasaud*, *bisaud*, *baksyauni*) for refunding the property. If the statement recorded in court by the persons concerned saying "This was said so" is proven to be true, and (the person accused of illicit sexual intercourse) signs

such a confession (statement), imprison such a liar for three years if such additional punishment is due according to the *Ain*, and (then) release him. If the person concerned submits his complaint after the death of the person who had recorded a statement in court claiming that the former had confessed his guilt, such a statement shall be regarded as valid and the case shall not be reviewed. If the guilt is punishable with fines or requires the payment of marriage expenses, and if the person accused of the offence is arrested, collect from him the fine or marriage expenses, whatever is necessary, and release him. No punishment shall be inflicted unless the guilty person is arrested, nor shall any marriage expenses be paid. Grant *patiyā* to those persons who have ignorantly accepted (cooked rice and water from the hands of the guilty person).

§ 67

If any person is arrested due to (violating against the rules of accepting) cooked rice (and) water, the chief officer (or) functionary (*hākim*, *diṭṭhā*, *bicāri*, *amāli*, *dvāryā*, *mukhiyā*) of any government office (*aḍā*), court (*adālat*), police station (*thānā*) or local office (*amāl*) shall, after the matter is proven, judge the case after issuing an order, saying "Do not offer cooked rice (and) water to anybody; now stay in (provisional) ostracism." If (the order) is necessary for cooked rice and water, then (do so) for cooked rice (and) water. If it is necessary for water (only), then (do so) for water only. If after investigations it is found that *patiyā* should be granted, or that the offence had been ignorantly committed, grant *patiyā*. If it is found true or doubts have been raised that *patiyā* need not be granted, the person who had ordered: "Stay in provisional ostracism with respect to the use of cooked rice (and) water until the investigations are finished" shall not be considered to have committed any offence, if it is confirmed that he has not accepted cooked rice (and) water (from the hands of the person concerned). No *patiyā* must be granted to him. He shall remain in his caste. If after investigations it is found that *patiyā* cannot be issued (to the guilty person), he shall be ostracised, if it is necessary, for cooked rice (and) water, then (do so) for cooked rice and water; if it is necessary for water (only), then (do so) for water only. Regarding the officer of the court (*kacahari*) who did not order the provisional ostracism with respect to the use of cooked rice (and) water (from the hands of the guilty person), after doubts have been raised and as a result of others unknowingly accepting cooked rice (and) water (from the hands of the guilty person), punish him with a fine of Rs 100 if the matter

concerns failure to prescribe provisional ostracism with respect to the use of cooked rice, and Rs 50 in the case of water. Since (the guilty person) had not been provisionally ostracised with respect to the use of cooked rice (and) water by the court, grant *patiyā* to persons who have taken cooked rice (and) water from his hands. There is no need for punishment.

§ 68

If anyone ignores the provisional ostracism and fails to have a certificate of rehabilitation issued in the name of a person who had been provisionally ostracised with respect to the use of cooked rice (and) water by any government office (*adālat*), court, police (*thāna*) station or local body (*amāl*), including the Dharmādhikārīn, village headman (*thari*, *mukhiyā*), commensal relatives or respective people, even after it is held according to the law that a certificate of rehabilitation shall be issued with respect to the use of cooked rice (and) water, and thus virtually purifying (the person alleged to have committed the offence), and if (the former) freely involves the latter in the use of cooked rice and lets him perform ceremonies for gods or ancestors, punish him with a fine of Rs 50 if he has done so with respect to cooked rice, and of Rs 25 with respect to water. Grant *patiyā* to the person who had been provisionally ostracised according to the *Ain*. He shall not be degraded to a lower caste. If anyone who had been provisionally ostracised with respect to the use of cooked rice (and) water does not obtain a certificate of rehabilitation and ignorantly lets other persons consume cooked rice (and) water from his hands, or performs any ceremonies for gods or ancestors, arrange for the granting of *patiyā* after punishing him with a fine of Rs 50 for having let others consume cooked rice from his hands or for having performed ceremonies for gods and ancestors, and Rs 25 for letting others take water from his hands.

§ 69

A Jaiśī Brahmin of any category shall initiate only a Jaisi of equivalent (*bhāt mildā*) status into the *gāyatrī*³⁰ (or) *dīkṣā* according to (his) tradition. Neither the listener (disciple) nor the teller (*guru*) shall be considered to have committed any offence. He (the *guru*) shall not initiate any person from any other Wearers of the Sacred Thread and from the Jaisi caste of higher status. If somebody (from the Jaisi caste) initiates (somebody else), fine him with

30 R̥gveda 10.62.3.

Rs 50 if he has initiated an Upādhyāya Brahmin, with Rs 40 if he has initiated a Rājput, with Rs 30 if he has initiated a Sacred-Thread-wearing Chetri, and with Rs 20, if he has initiated a Jaisi of higher status. If a Upādhyāya, Rājput, Chetri or Jaisi of higher status has received the *mantra* from a Jaisi who is of lower status and also above age sixteen, punish him (the receiver) with fines at half rates. If the person who listened to the *mantra* is under age sixteen, punish the main person responsible for the arrangement of the initiation with fines at half rates. After that punishment, the Upādhyāya, Rājput or Chetri shall receive initiation into the *gāyatrī* (or) *dīkṣā* from an Upādhyāya Brahmin, whereas a Jaisi Brahmin (shall receive initiation) from an Upādhyāya Brahmin or from a Jaisi of equivalent or higher status, (and) according to the tradition of their castes. And after listening to (the *mantra*) they shall be taken (i.e. initiated) into their caste.

§ 70

With effect from the first day of the dark half of (the lunar month) Vaiśākha, 1922 (Vikrama Saṃvat), no person from any Water acceptable Caste of the Four Varnas and Thirty-six Castes such as Brahmins, Rājputs, Chetris, Vaiśyas and Śūdras, who has been recruited in the English Company shall be allowed to let others consume cooked rice (and) water from their hands without royal permission (*hukum*), because it is heard that they sleep in the same tent and consume alcohol with the Water-unacceptable Castes like Damais and Kāmais. Nobody shall take (cooked rice and water from their hands).

(It follows the) “*Ain* regarding to the granting of *patiyā* with respect to water for persons employed in foreign countries”:

§ 71

If persons return from foreign countries (such as) Tibet (or) India after having worked there as servants, labourers or porters are receiving payment of wages or salaries, (and) if it seems that they have slept in the same tent and used tobacco, etc. with people belonging to Water-unacceptable Castes, no one shall take water from the hands of such persons unless they have obtained a certificate of rehabilitation with respect to water. A certificate of rehabilitation shall be issued by the court (*adālat*) or local body (*amāl*) on payment of a fee of four *ānā*. The Dharmādhikārī shall then issue a certificate of rehabilitation on payment of four *ānā*. Arrange the necessary

(*niti smṛti*) for (the guilty person) who knowingly takes water from the hands of such a person having no such certificate of rehabilitation.

Ain relating to the grant of *patiyā* with respect to cooked rice (and) water to persons who have taken cooked rice (and) water out of ignorance of any offence relating to cooked rice (and) water committed by any person because of delay in disposing of the case:

§ 72

If the son, daughter, elder sister, younger sister, daughter-in-law, mother, grandmother, paternal aunt, wife of maternal uncle, or other relative of any person belonging to any of the Four Varnas and Thirty-six Castes is charged with any offence relating to the taking of cooked rice (and) water from the hands of a (person belonging to a lower caste), or relating to illicit sexual intercourse, until the matter is resolved, neither the plaintiff nor the respondent shall be allowed to touch cooked rice if it is a matter of ostracism with respect to cooked rice, or touch water if it is a matter of ostracism with respect to water. The ostracism may or may not be lifted according to the *Ain* after the matter is disposed of in the case of those who have suppressed information relating to illicit sexual intercourse or any offence relating to the taking of cooked rice (and) water (from the hands of the guilty person). As for other persons who have done so ignorantly, the court (*adālat*), police station (*thāna*) or local body (*amāl*) shall issue a certificate of rehabilitation in the name of the guilty person if he or she loses the case, and of purity of the body (*dehaśuddha*) if he or she wins. The Dharmādhikārī shall then issue a certificate of rehabilitation mentioning both conditions. If the case has been disposed of on the basis of a confession, grant a certificate of rehabilitation in the name of the respondent according to the previous *Ain*.

4. Edition of chapter 32 of the fifth volume of the Ain of 1888

धर्माधिकारको

१. नं॥ ॥ ऐनले भातबा पानिबा भातपानिको पतिया पाउन्या बाबतिलाइ पतियादिदा तेसमानिसलाइ हुन्यासजायेभै नसकी पतिया नदिनु अरुऐनको रीतपुन्याइ पतियादिनु ॥ ॥

२. नं॥ ॥ योकूरो गर्नुनगर्नु भन्या षवर राषन नसकन्यागरी वहुलायाका मानिश्छेअभक्ष अछुतिजात सम्मकाहातको षायापनितेस्ता लाइबुद्धि ठेगाना आयापछि प्रायश्चित्त गराइदिनु ॥ ॥

३. नं॥ ॥ आफना मनासिवले केहिकारणले मर्छुभनि गैहमरि न्याकूरो आफैले गर्न्यालाइ औसधिगर्दा बाच्योभन्या प्रायश्चित्त पाउछ

४. नं॥ ॥ अपराधगरी काटिया मुडियाका बा दामल भयाका हाडनातावा आफुभन्दा घटि जातमा पानि नचलन्यार छिटोहालनुपर्न्या जातमा करणि भैभयोभातपानि षाइभयो जातभात पानिबाटपतितभयाकाको कृया गर्दा कृयासुद्धको पतिया नगराइ गर्नुहुदैँन कृया सुद्धको पतियामाघ्न आयामा ऐनबमोजीमको दस्तुरलि पुर्जीगरीदिनु

५. नं॥ ॥ ऐनमा जौनजौन कुराको पतियादिनुभन्यालेषियाको छ सोहिबमोजीम पतियादिनु लोभ्यालेपानिको पतिया पाउन्यामास्वास्त्रिलाइपनि पानिकोपतियादिनु हाडमा करणिगर्दा लोभ्यामानिस्को ज्यानजान्या दामलहुन्यामाभया त्योकरणिदिन्या स्वास्त्रिबेस्याभयापछि पानिचलछ स्वास्त्रिमानिश्छेआफना लोभ्याबाहेक अरुलाइकरणिदिदा¹ मभोरमा परे भनि भन्न आया स्वास्त्रिको भोरठहर्दैँन पतियापाउदैँन

६. नं॥ ॥ जातगयाका लोभ्याको थाहापाई करणिदिन्या भात पानिषान्या स्वास्त्रिलाइ लोभ्याको जौन जातहुन्छ स्वास्त्रिकोपनि उहि जातहुन्छ गर्भरह्याको रहेछभन्या बालषकोपनि सोहिजातहुन्छ थाहानपाई करणि दियाको भातपानि षायाकोभया गर्भरह्याको रहेन छभन्या भातपानिको पतियापाउछ गर्भरह्याको रहेछभन्या पानिको मात्र पतियापाउछ जात नमासिन्या जातहुन्छ अरुकोभया मासिन्या सुद्धजातहुन्छ आमाका पतियाले गर्भको बालषस्मेत सुद्धहुन्छ वातलाग्याकालोभ्या फेला परेनर मैले थाहा पायाकि छैनभनि मुचुत्कालेपि दियाभन्यामाथि लेषियाबमोजीम पतियादिनु गर्भकोबालषस्मेत आमा का पतियाले सुद्धहुन्छ पछि लोभ्या आई कायेम गन्योभन्या माथिलेपियाबमोजिम गर्नु ॥ ॥ ॥

1 add अरुलाई.

७. नं॥ ॥ सिपाहिको धर्म क्या हो भन्या लडाइ गर्नु हो सोलडाइ गर्ना निमित्त गया को हुनाले अरु मुलुकमा भर्ती भै भात पानि जात जादैन आफनु जात जान्या कर्म गन्याको प्रमाण पुग्याको भया जात जाञ्छ आफना मुलुक छोडि अर्काको मुलुकमा जादा निष्ठा कर्म पुग्न नसकन्या हुनाले पतिया नगरी रहन हुदैन पतिया दिनु ॥ ॥ ॥

८. नं॥ ॥ देस पर्देस गयामा जुम्या केहि भै आफनो समर्थ नचलन्या गरी असख्य भयाका वेलामा जात मिल्दो कोहि नभयाका ठाउमा आफु भन्दा घटि जातका हातको भात पानि नचलन्या जातको पानि षाया पनि समर्थ चल्या पछि येस्तो वे होरा हुदा षायाको भनि जाहेर गन्याले प्रायश्चित्त पाउछ षान्या घुवाउ न्यालाइ सजाय पनि हुदैन सो कुरा जाहेर नगरी पतिया नलि अरु लाइ बोरेछ भन्या. बातला गछ बो न्याको रहेनछ फरकरहि केहिकारणले मात्र पतिया नगरी र ह्याको रहेछ भन्या अरुले जाहेर गन्या पनि बातला गदैन प्रायश्चित्त दिनु ॥ ॥

९. नं॥ ॥ उसले गन्याका अपराधले पतिया भन्या पाउन्या रहेछ केहिकारणले पतियान भै रहि जाया जन्मस्मैत भयाको रहेछ पतिया हुन नपाउ दै मर्दा कृया सुद्धको पतिया गरी काज कृया भयाको रहेछ पछि तिन्का सन्तानले पतिया माग्या भन्या छोरा छोरी लाई कर्म चल्याको भया पनि पतिया पाउछ दिनु ॥ ॥

१०. नं॥ ॥ भात पानिको कुरा परि आयामा यो कुराको ठेगाना नहुञ्जि ऐल्हे भात पानिमा फरक रहु भनि हटक गरी इन्साफ गर्नु इन्साफ गर्दा ऐनबमोजीम जोठ हर्छ सोबमोजीम गर्नु^१ भात पानिको सङ्का उठ्या पछि हटक नगन्या लाइ बातला गछ हटकीयाका मानिन्छे कुराको ठेगाना नबसि हटक मिचि काम गन्या लाइ भात चलाउ न्यार^२ अरु कार्य गन्या लाइ ५० पानि चलाउ न्या लाइ २५ रुपैया दण्ड गरी ऐनबमोजीम गर्नु^३

११. नं॥ ॥ मुष पतित भयाका स्वास्त्रिको जाहेर नभै भात पानि षान्या लाइ पतिया पर्दैन जातैमा रहन्छ ॥ ॥ ॥

१२. नं॥ ॥ कारणिले पतिया पाउन्यामा तेस्ताका हातको जानि जानि भात षान्या लाई ३० पानि षान्या लाई १० रुपैया दण्ड गर्नु कारणि पतिया पाउन्यामा वावतिले जौनको पतिया पाउछ तेष्ठाइ पनि भात पानी जौनको पतिया दिनु पर्छ पतिया दिनु बापति पक्रिया पछि कायेल नहुदै षायाको भया माथिले षिया वमोजीम सजाय गरी बापतिले पतिया नपाउन्या भया पनि यस्ताले पतिया पाउछ भात पानिको पतिया गरी दिनु जात जादैन ॥ ॥ ॥

१३. नं॥ ॥ अक्षर नषोदियाका दामलका हातको जानि जानि पानि षाया करणि गन्या पनि १० रुपैया दण्ड गरी पतिया दिनु ॥

1 read सोबमोजीम गर्नु.

2 read भात चलाउ न्या लाई.

3 add ॥ ॥ ॥.

१४. नं॥ ॥ कारणिलाई र दवाउन्त्या सुनिकन भातपानिषान्या हरुलाई मामला नटुटि भातपानिको पतियादिन हुदैन बाहेकरहन्छ मामला टुट्यापछि पाउन्त्यालाईदिनु नपाउन्त्यालाई पतिया नदिनु ई मानिस देषिबाहेक अरु भोर्मापन्या थाहानपाउन्त्याहरु गैह्रलाई ज सलाईवातलाग्याकोछ हाज्योहारीभन्या तेस्कार तेस्कका नाउको जितिभन्या देहसुद्धको पतियाभनि अदालतठाना अमालबाट पुर्जीगरी दीनु धर्माधिकारबाटपनि दोहोरो बेहोराको पतियादिनु ॥

१५. नं॥ ॥ भोर्को भातपानिकोवा ऐनले पतिया पाउछभन्याका मापतिया दिदा अवल लाइ २ दोयेमलाइ १॥. सिमलाइ १ चाहार लाइ॥. कादलै दस्तुरलि धर्माधिकारलाई पुर्जीगरी दीनु सोपुर्जीको दस्तुर दीन नसकन्या सारै गरीपरहेछभन्या जाहेरगरी जतिलिनूभन्याहुन्छ उतिलि पुर्जीगरीदिनु ॥

१६. नं॥ ॥ भातको पतिया दिनूभन्या पुर्जीआयामा धर्माधिकारबाट प्रथम संसर्ग घर १ को ३॥. दोश्रोसंसर्ग घर १ को १॥. तेश्रो संसर्ग घर १ को॥ // चौथोसंसर्ग घर १ को। /// पानिको पतीयादिनु भन्या पुर्जीभै आयामा पानिको पतियादिदा येहिलेपियाका घरकोआधाका हिसाबले दस्तुरलि पतियाको पुर्जीगरीदिनु ॥

१७. नं॥ ॥ अनाचारको पतियादिदा अवलबाट १¹ दोयमबाट ॥. सिमबाट।. चाहारबाट // कादलै धर्माधिकारबाट दस्तुरली पतिया को पुर्जीगरी दिनु ॥ ॥ ॥

१८. नं॥ ॥ भेषधारीसित मुडिन्यामा पतियादीदाको पुर्जीभै आयामा अवललाइ ५² दोयेमलाइ ४ सिमलाइ ३ चाहारलाइ २ कादलै दस्तुरलि पतियाको पुर्जीगरी दिनु ॥ ॥ ॥

१९. नं॥ ॥ भवितव्यभै ज्यानमर्न गयामा पतियाको पुर्जीभै आयामा अबललाइ १५ दोयमलाइ १० सिमलाइ ५ चाहारलाइ २॥ कादलै दस्तुरलि पतियाको पुर्जीगरीदिनु ॥ ॥ ॥

२०. नं॥ ॥ कृयासुद्धको पतियाको पुर्जीभैआयामा औवललाइ २ दोयमलाइ १ सिमलाइ ॥ चाहारलाइ १. दस्तुरलि पतियाको पुर्जा गरीदिनु॥ ॥ ॥ ॥

२१. नं॥ ॥ अपहत्या गर्न्यालाइ बा अपहत्यागरी मान्या वा अपराधगर्न्या सर्कारबाट ज्यानमारीयाका मानिस्को दाहकृयागर्न्या पुर्जीभै आयामा / आनादेषि । /³ सम्मकोदस्तुरलि पतियाको पुर्जीगरीदिनु यस्मा अमालिको घतलाग्दैन ॥

२२. नं॥ ॥ लेषियादेषि वाहेक अरुकुरोमा ऐनले पतियादिनु भन्या लेषियाका मुद्दामा मुद्दाहेरी अदालतअमालबाट अपराधहेरी १ आनादेषि १ रुपैयासम्म पुर्जीको दस्तुरलि पुर्जीगरीदिनु सोपुर्जीमा येतिदस्तुर लियाकोभनि लेषिपठाउनु धर्माधिकारबाट पनि सोहिपुर्जीको दस्तुर वमोजीम दस्तुरलि पतिया गरीदिनु ॥ ॥ ॥

1 add रूपैया.

2 In the following, add always रूपैया.

3 add आना.

२३. नं॥ ॥ साहै गरीप मानिसरहेछभन्या प्रथम दोश्रोतेश्रोभया पनि चौथोसरहलि गरीदिनु नअड्काउनु॥ ॥ ॥

२४. नं॥ ॥ गाइगोरु दामलामापरी मरेमा // आनादस्तुरलि पुर्जीगरीदिनु धर्माधिकारबाटपनि सोहिबमोजीम दस्तुरलि पतिया गरीदिनु ॥ ॥ ॥

२५. नं॥ ॥ पानिमा चौथोलाइ पतियादिनुपर्देन सर्व प्रायश्चित्त लेसुद्धहुन्छ माथि लेषियाका दस्तुरभन्दा वढतालिया वातलागछ॥

२६. नं॥ ॥ पैन्हालाइ धर्माधिकारबाट पतियादिदा अदालत अमालको पुर्जीनभै पतियादिया बातलागछ॥ ॥ ॥

२७. नं॥ ॥ येसैमहल्मा लेषियाका मुद्दामा येसैमहल्मा सजा यतकि ऐन लेषियाकामा सोहि ऐन वमोजीम सजायगर्नु सजाय नलेषियाका हाकिमले सजाय पाउन्मा कूरामा अदालति बन्दोबस्तका दोश्राभागका ऐनवमोजीम सजायगर्नु॥ ॥ ॥

२८. नं॥ ॥ लेषियादेधीबाहेक अरुमुद्दामा चुकअनुसार मुद्दा हेरी १ रुपैयादेधि ५०० रुपैयासम्म दण्डबा १ दिनदेधि ७ बर्षसम्म कैद वा जागिरबाटस्मेत् वर्षास गर्नामा प्राईम्मीनिष्ठरको तजविज॥ ॥

२९. नं॥ ॥ पोलिसाबितगर्न नसकन्मा पोलाहालाइ मुद्दाहेरी ॥ देधि २५ रुपैयासम्म हाकिमका तजबिजले सजायगर्नु॥ ॥

३०. नं॥ ॥ जितनेसन^१/आनादेधि ५ रुपैयासम्म^२ जिताउरीलिनु ॥

३१. नं॥ ॥ यस्महल्का ऐनमा सजायदिनुभन्मा नलेषि प्रायश्चित्तदिनुभन्मामात्र^३ लेषियाकोमा सजायनगर्नु ॥ ॥ ॥

३२. नं॥ ॥ ऐनमा लेषियाका अनाचार र भातपानि करणिका कुरावाहेक अरु सानातिनाकुराको अनाचारझुकि भयामा अनाचार हेरी ५॥ देधि॥. आनासम्म दस्तुरकि^४ पुर्जीगरीदिनु धर्माधिकारलेपनि सोहीबमोजीमलि पतियाको पुर्जीगरीदिनु ॥ ॥ ॥

३३. नं॥ ॥ अदामा भात पानिको मामला पन्मामा प्रमान नपुन्माई वावति भाग्यो भन्माहाकिमले अरू केही परिवंधको सो भाग्यावाट अर्थात कंचा (?) गर्दापनि पतियालीन्याले जानी जानी षायाको पता

1 read अजितनेसग.

2 add रूपैया.

3 omit भन्मा मात्र.

4 read दस्तुरलि.

लाउन सकेन भन्या दुनिजालाई अलमल्याई राषनु हुदैन् दोहोरो व्यहोराको पतिया गरिदिनु सो पतिया गर्दा मु यौताको जातसंग दमिरै (?) मानीसको जात जान्या अपराधी पछि केहि परिबन्धले ठहर्ज्यो भन्या ऐन वमोजीम् मेरो जात ली थप कैद पैल्हालाई ३ वर्ष दोस्त्रालाई २ वर्ष तेश्रा लाई १ वर्ष कैद स्मेत गर्नु भन्या मुचुल्कामा षोली गरि मुचुल्का गराई ली दोहोरो व्यहोराको पतिया गरी दीनु¹ ॥

¹ This paragraph is written by hand.

5. Translation of chapter 32 of the fifth volume of the Ain of 1888

“On [the duties of] the Dharmādhikārin”

§ 1

If (the Dharmādhikārin¹) grants *patiyā* for cooked rice (and) water to an applicant (*bābāti*) who could get *patiyā* for cooked rice (and) water according to the *Ain*, do not grant *patiyā* until the punishment for that person is resolved. He should grant *patiyā* only after fulfilling the rules of other *Ains*.²

§ 2

If an (temporarily) insane person who cannot understand which things should be or should not be done, then eats impure food from the hands of any caste down to the Untouchables, arrange *prāyaścitta* for him after his consciousness (*buddhi*) and (knowledge of his) address has come back.

§ 3

If any person decides on his own for whatever personal reason to die etc. (i.e. to commit suicide), and if he attempts the act (but) survives due to the use of medicine, grant *prāyaścitta*.

§ 4

If (a person) has committed a crime for which capital punishment or (in the case of Brahmins) the [full] shaving of the head³ or life imprisonment (is

1 The MA 1888 mostly uses *dharmādhikāra*.

2 *Ains* prior to the *Ain* of V.S. 1945; this passage indicates that the *Ain* of V.S. 1945 is understood as a supplement to the previous *Ains* and not as an amendment.

3 Including the top knot (*śikhā*), which implies that the guilty person loses his ancestral lineage. Brahmins cannot be punished with capital punishment.

prescribed), (and if he or she) had had a (forbidden) sexual relationship (*karaṇi*) within the same (i.e. his or her own) clan (or) with (a member of) a lower caste (or) with (a member of) a Water-non-acceptable (Caste) (or) with (a member of any) Untouchable Caste (and) then accepted cooked rice (and) water (from them), he or she is (to be regarded as a person belonging to a fallen caste (and) the commensal group which eats (together) cooked rice (and) water. It is not allowed to perform *daśakṛyā* (i.e. the death ritual) without (first) granting *patiyā* for the purification (necessary in such cases) for the death ritual. If somebody asks (an officer or Dharmādhikārin) for *patiyā* for the purification of the death ritual, issue a certificate of rehabilitation (*purjī*) after charging a fee according to the *Ain*.⁴

§ 5

Whatever is written in the *Ain* (about) the granting of *patiyā*, grant *patiyā* accordingly to that (law). If a man gets *patiyā* for water, grant his wife *patiyā* for water as well. If a man had a (forbidden) sexual relationship within his own clan (and) if capital punishment or life imprisonment was sentenced (to him), water can be accepted from the woman who had (such a) sexual relationship (and who thus) had become a *besyā* (“prostitute”). If a wife who had had an (illegal) sexual relationship with someone other than her own husband says “I had fallen into ignorance (*bhor*)” (i.e. I did not know what I was doing)⁵ then asks (to get *patiyā*), do not trust the wife (and) do not grant *patiyā*.⁶

§ 6

If a wife knowingly has a (forbidden) sexual relationship with her husband who had lost his caste (because of adultery), (and) accepts rice (and) water (from him), such a wife also gets the same (degraded) caste as the man. If she happens to get pregnant, the child is admitted to the same (degraded) caste as well. If she did not know (about the adultery), and if she accepted cooked rice (and) water (but) did not become pregnant, she will get *patiyā* for rice and water. If she became pregnant, grant her *patiyā* for water only. The (her) caste will be a Non-enslavable Caste. Regarding other castes (i.e. Enslavable Castes), they (both) will be admitted to the Enslavable Śūdra

4 Cf. MA 185489/11 and 14.

5 Lit. “I had fallen into ignorance (*bhor*)”.

6 Cf. MA 1854/89/18.

Caste. Due to the *patiyā* of her mother the (unborn) child in the womb is also purified.⁷ If the accused husband has disappeared and the wife later states in writing "I did not know (about the incident of the degradation of my husband)", grant (her) *patiyā* according to the written (paragraphs) above. The child in the womb will be purified by the *patiyā* of the mother. If the husband comes back (and) keeps the relationship (to his wife), act according to what is written above.⁸

§ 7

The Dharma of the soldier is to go to war. In order to be able to go to such a war (or) to join a foreign military force, he will not lose (his rights regarding) cooked rice (and) water, nor (his) caste. If there is sufficient evidence (*pramāṇa*) for action that would make him lose his caste, he will (then) lose his caste. If he has left his own country and (thus) could not fulfil (his) devotion to duty, he should not stay (in his own) without (first) getting *patiyā*. (Therefore) grant (him) *patiyā*.

§ 8

If somebody travels to a foreign country (and) something happens (because of his own actions or those of others) to his body, making him immobile and helpless, during that time of being unfit if there is nobody of similar caste (to help him), (and if he then) drinks at that place water from the hands of (a person belonging to) a caste lower than his own (or from a caste) which neither rice nor water can be accepted from, and if he (then) becomes fit (again and) makes a report stating that he drank water while in such a condition, grant *prāyaścitta*. There will be no penalty (*sajay*) for those who eat with and/or feed him. If he does not report the circumstances (*kurā*) (and) does not take *patiyā*, (moreover) if he contaminates others, he will be blamed. If he does not contaminate (others), (i.e.) if he stays isolated, (and) if he does not get *patiyā* for some reason, in such a case (*rahyāko rahecha*

7 Cf. MA 1854/89/20-21.

8 One possible interpretation could be that the first sentence of § 6 is now applicable, i.e. the wife will be punished if she continues any sexual relationship with her husband without getting him purified first. For the consequences of impurity transmitted from father to son, see MA 1854/161/27 (Höfer 1979: 187).

bhanyā), even if it is reported by others, he will not be blamed. Grant *prāyaścitta*.⁹

§ 9

If a person for some reason has not received *patiyā* for a crime which *patiyā* could be given for, (and) if he happens to have children (during that period) (or) if he dies without *patiyā* but had received readmission to his caste on the grounds of the purifying death rites (*kṛyāsuddha-ko patiyā*) and if later his descendants ask for *patiyā*, grant (them) *patiyā*; give (it to them), even if the *saṃskāras* of his children have (already) been performed.¹⁰

§ 10

If there is an unresolved decided dispute with respect to cooked rice or water, make a decision (*insāph*) ordering (those involved to) “Stay away from water and rice”. In making the decision, act according to the *Ain*. If a suspicion is raised on (the acceptance of) cooked rice (and) water, and if the separation (*haṭak*) is not followed, accuse (this person) and those persons (or relatives) of the separated person who did not follow the order (to not) consume cooked rice together with them, etc. Fine them Rs 50 (if they accepted cooked rice), and Rs 25 for water. Act according to the *Ain*.¹¹

§ 11

Patiyā for (somebody who accepted) cooked rice and water is not necessary (for a husband) whose wife had (only) verbally been degraded (and) if no report has been filed. He (the husband) remains in the same caste.¹²

§ 12

The person who knowingly accepts cooked rice (and) water from the hand of an instigator (*kāraṇi*) (of a crime) for which one can get *patiyā* is to be punished with Rs 30 for (*patiyā* for) cooked rice or Rs 10 for water. To the instigator (of a crime) for which one can get *patiyā* grant the same *patiyā* as

9 According to MA 1854/161/29 (Höfer 1979:187ff.), a report is essential for *prāyaścitta* and *patiyā*.

10 Cf. Höfer 1979:187; for another case of postmortal *patiyā*, see also MA 1854/163/54.

11 Cf. MA 1854/89/67.

12 Cf. MA 1854/89/62.

the accused (i.e. guilty) person. If somebody accepts (cooked rice and water) from the accused person after his arrest, (but) before he confesses, punish (the receiver) according to (the fees) written above even if the accused person cannot get *patiyā*. [In such a case] the (contaminated) persons get *patiyā*; grant *patiyā* for cooked rice (and) water. The caste remains.

§ 13

Punish any person who knowingly accepts water (and cooked rice?) from and has sexual contact (*karaṇi*) with a person who had been sentenced to life imprisonment (but) not branded with the (initial) letter (of the degraded caste) with a fine of Rs 10. Grant *patiyā*.

§ 14

It is not allowed to grant *patiyā* (to someone) for cooked rice (and) water without a decision (*māmalā*) (by the court) to such (a person) if he has heard about it (i.e. knowingly) accepted cooked rice (and) water (from an accused person or) if he has hidden (the fact) and was not the instigator (of such a crime). He should stay separate. If a decision is made, *patiyā* should be given to those who are eligible, (but) not to those who are not. Except for those persons (mentioned in § 14), other persons who have mistakenly (*bhor-mā*)¹³ or unknowingly been accused (*vāta*) mentioning both the conditions whether they lose (the case or win),—if they win (the case) a certificate of rehabilitation (*purjī*) from a court (*adālat*) or police station (*thāna*) (or) district office (*amāla*) for a *patiyā* called *dehaśuddha* (the purification of the body) should be given. The Dharmādhikāra should also grant *patiyā* with a description (*behorā*) of both the conditions.¹⁴

§ 15

If somebody gets *patiyā* for mistakenly (carrying impurity) after (illegally accepting) cooked rice (and) water, or (in other cases defined) by the law, charge a fee¹⁵ while giving *patiyā* at the rate of (Rs) 2 for *aval*, 1.50 for *doyam*, 1 for *sim* (and) 0.50 for *cāhār*, and a certificate of rehabilitation should also be given to the Dharmādhikārin. If a person is very poor and

13 Cf. MA 1854/157/29.

14 Cf. MA 1854/89/58 and 72.

15 In the MA 1854/89/7, there was no fine (*daṇḍa hundaine*) or fee for similar cases.

cannot pay the respective fee, then decide (lit. report) how much should be commanded (from the poor person), and after having been paid, issue a certificate of rehabilitation to the guilty person.

§ 16

If a letter comes ordering the granting of *patiyā* for cooked rice, the Dharmādhikāra should give (*patiyā*) after charging each (Rs) 3.50 for the first contaminated house (i.e. family), Rs 1.75 for 2nd contaminated house, Rs 0.75 for the 3rd and 25 *paisā* for the 4th. If the letter comes ordering the granting of *patiyā* for water, while giving *patiyā* for water charge half of the amount written above and grant *patiyā* with a certificate of rehabilitation.

§ 17

While *patiyā* for misconduct (*anācār*)¹⁶ is being given the Dharmādhikāra should grant *patiyā* with a certificate of rehabilitation, charging at the rate of Re 1 for *aval*, 50 *paisā* for *doyam*, 25 *paisā* for *sīm* (and) 2 *ānā* for *cāhār*.

§ 18

If a letter comes ordering the granting of *patiyā* for having been shaved together with the ascetics (*bheṣḍhārī*)¹⁷, in such a case collect a fee at the rate of Rs 5 for *aval*, 4 for *doyam*, 3 for *sīm* (and) 2 for *cāhār* and issue a certificate of rehabilitation.¹⁸

§ 19

If a person dies because of a sudden incident (*bhavitavya*), and if a letter comes stating such an incident, collect the fee of (Rs) 5 for *aval*, 4 for *doyam*, 3 for *sīm* (and) 2 for *cāhār*, and issue a certificate of rehabilitation.¹⁹

16 Drinking wine, etc.

17 See Höfer 1979: 131f.

18 Cf. MA 1854/88/5.

19 Not mentioned in the MA 1854/65.

§ 20

If a letter comes ordering *patiyā* for the performing of death rites, collect a fee of (Rs) 2 for *aval*, 1 for *doyam*, 0.50 for *sim* (and) 0.25 for *cāhār*, and issue a certificate of rehabilitation.

§ 21

If a certificate of rehabilitation comes for (the performing of) death rites for persons who had either committed suicide (*apahatya*) or were killed due to the suicide (of somebody else), or who were killed by the government for a crime take a fee ranging from 25 *paisā* to Re 1, and grant *patiyā* with a receipt. In this case the district office will not be considered guilty.²⁰

§ 22

If not stated otherwise, if the Ain says to grant *patiyā*—which must be mentioned in such cases after considering the crime (*aparādh*), charge from 1 *ānā* to Re 1 for a certificate of rehabilitation, (and) a court (*adālat*) and district office (*amāl*) should issue a certificate of rehabilitation. In that certificate of rehabilitation it should be mentioned how much was charged. The Dharmādhikāra should also grant *patiyā* after collecting the same amount mentioned in the certificate of rehabilitation.

§ 23

If a person is very poor, i.e. in the category of 1st, 2nd (or) 3rd (*ambal*, etc.), collect the fee according to the 4th (category). Give (*patiyā*) and do not stop (doing so).

§ 24

If a cow or bull dies while binding it issue a certificate of rehabilitation after charging 2 *ānā*. The Dharmādhikārin should also grant *patiyā* according to that amount.²¹

²⁰ MA 1854/89/10.

²¹ MA 1854/66/13.

§ 25

Patiyā for water should not be given to the 4th category. Through *prāyaścitta* he will be pure. If the fee taken is more than that written above, a complaint can be made.

§ 26

If *patiyā* is given to the first (category) by the Dharmādhikāra without a certificate of rehabilitation from a court (*adālat*) or district office (*amāl*), (the Dharmādhikārin) can be accused.

§ 27

If it is not written in the *Ain* (but) fixed in this chapter (*mahal*), punish according to that *Ain*. If the punishment (in this *Ain*) is not fixed, the chief government officer (*hākim*) should punish according to the *Ain* connected with the management of court, part two, if it is punishable.²²

§ 28

In all other cases except for the written ones, the Prime Minister can punish with Re 1 to Rs 500, or with one day to seven years imprisonment. He may also dismiss (the officials) from *jāgār* (post) by examining the case.²³

§ 29

If (an accusation) cannot be proven, the accuser should be punished with 50 *paisā* to Rs 25 after the case is examined by chief government officer (*hākim*).²⁴

§ 30

Take 1 *ānā* to Rs 5 from the winner as a fee for winning (the case).

22 For other punishments of the *hākim* (e.g. hiding documents, etc.), see MA 1854/89/6.

23 See MA 1854/89/4.

24 See MA 1854/89/15.

§ 31

If it is written, just give *prāyaścitta* but not punishment; (in such a case) do not give punishment.

§ 32

Except for the misconduct mentioned in the *Ain* and (illegitimate acceptance of) cooked rice and/or water, (as well as) illegitimate sexual contact, if a person is accidentally mislead and other types of small misconduct occur, issue a certificate of rehabilitation, charging from 2 *ānā* to 50 *paisā* considering on (the types of) misconduct. The Dharmādhikārin should also issue the certificate of rehabilitation accordingly.

§ 33

If the accused person runs away because of unsufficient evidence in court in the case of *bhātpāni*, if (afterwards) the chief government officer (*hākim*) could not find out whether the person who is asking for *patiyā* has come into contamination knowingly or unknowingly from the person who had run away for whatever reason, in such a case it is not allowed to keep the people in confusion: *Patiyā* should be given with mentioning both the conditions.²⁵ In order to perform this kind of *patiyā*, it should be clearly written in the statement, with witnesses and signatures (*muculkā*),²⁶ that if the guilty person is captured again and his guilt confirmed for a crime by which he loses his caste, according to the *Ain* it should be written and kept "If I am found guilty, my caste can be taken in addition to imprisonment for three years for the 1st (category), two years for the 2nd and one year for the 3rd."²⁷ Grant *patiyā* describing both the conditions.²⁸

25 Temporary *patiyā*?

26 Testimony with signatures, stamps, seals of witnesses, *hākim*, etc.

27 No fourth category has been mentioned here.

28 Cf. MA 1854/89/20.

6. Synopsis of the Ains of 1854 and 1888

MA 1854	MA 1888
5	1
7	2
8	3
10	21
11	4
14	4
15	29
18	5
19	14, 33
20	6, 33
21	6
58	14
62	11
67	10
72	14

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3.2.2 Children: MA 1854/89/16,20-3,27-8,30-1,38-9, 54; MA 1888/5.32/6

A full rehabilitation granted to the mother or father (MA 1854/89/38) was usually valid for their children as well (MA 1854/89/22; MA 1888/5.32/6), even if they were still in the womb (MA 1854/89/20). Similarly, degradation affected both parents and children (e.g. MA 1854/89/21). The children of degraded parents could have received rehabilitation to their original caste if petitions had been made before the age of twelve, even if they had accepted food from their parents. The same holds true if they were between twelve and sixteen but had no relatives to look after them (MA 1854/89/30). The age of morality, therefore, was twelve.

There were, however, a number of exceptions to these rules. If, for instance, a mother died before receiving rehabilitation, the children could still receive it (MA 1854/89/22). Other exceptions include a wife who had intercourse with her husband without knowing that he had committed adultery, thus enabling her for full rehabilitation for water and rice. If, however, she became pregnant afterwards, she could get rehabilitation for water only (MA 1854/89/21, MA 1888/5.32/6), and the children would be admitted to different castes according to the status of the father and the woman involved (MA 1854/89/23, 38-9). If children between the age of eleven and sixteen shaved their heads and joined groups of ascetics before their initiation (*vratabandha*),²⁸ their castes remained the same but only if they did not interdine with their gurus (MA 1854/ 88/5).

Children could also be the reason for the rehabilitation of adults. If, for instance, someone adopted a child which had been abandoned by his or her parents, and if the parents were found afterwards, the foster parents could get rehabilitation provided the child belonged to a lower caste (MA 1854/93/1).

3.2.3 Mourners: MA 1854/89/10-12; MA 1888/5.32/4,9,20-21

In some severe cases, e.g. capital punishment, life-imprisonment or degradation, a posthumous rehabilitation was required in order for the surviving relatives to be able to perform the death rites. This rehabilitation was called *kryāśuddha-ko patiyā*, "readmission to one's caste on the grounds of the purifying death rites".²⁹ On request and after paying a fee (*godāna*),

28 For "ascetic" children (*bālyogīs*) in Nepal, see Michaels 1986.

29 Details are dealt with in MA 1854/95 (*Murdā uṭhyānyā*, "On carrying the corpse"), MA 1854/96 (*Maryo bhani sunānyā*, "On the information of death news") and MA 1854/97 (*Sauca vāmyako*, "On the observation of [death] impurity"). For Hindu death rituals in Nepal, see Michaels 2004a and Gutschow/Michaels 2005.